Muema v Masila t/a Japhy Commercial Enterprise (Appeal E007 of 2023) [2026] KEELRC 354 (KLR) (6 February 2026) (Judgment)

Neutral citation: [2026] KEELRC 354 (KLR)

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS

APPEAL E007 OF 2023

JW KELI, J

FEBRUARY 6, 2026

BETWEEN

GEOFFREY MUEMA .... APPELLANT

AND

JAPHETH MUTISYA MASILA T/A JAPHY COMMERCIAL ENTERPRISE .... RESPONDENT

(Being an Appeal from the Judgment and Decree of the Hon. F. Makoyo (PM) given on 17th August 2023 in Kilungu MELRC No. E001 of 2022)

JUDGMENT

1. The Appellant herein, dissatisfied with the Judgment and Decree of the Hon. F. Makoyo (PM) given on 17th August 2023 in Kilungu MELRC No. E001 of 2022 between the parties filed a Memorandum of Appeal dated the 30th August 2023 seeking the following orders: -
   a. This appeal be allowed.
   b. The judgment by Honourable F. Makoyo PM in Kilungu ELRC NO. E001 OF 2022, delivered on the 11th August 2023 be set aside.
   c. This Honourable court be pleased to enter judgment on liability against the Respondents at 100%.
   d. This Honourable Court be pleased to enter a judgment on quantum as prayed in the claimant's pleadings before the trial court
   e. This court be pleased to award the appellant the costs of the suit in the lower court.
   f. The Appellants be granted the costs of the appeal.

g. This Honourable Court be pleased to make such further and other orders as it may deem just in the circumstances of the case.

Grounds Of The Appeal

2. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant worked for the Respondent continuously for a period between February 2021 and December 2021.

3. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant's evidence to the effect that he worked continuously for the Respondent from February to sometime in December 2021 was not controverted.

4. The Honourable Magistrate erred in law and fact in failing to consider the aspect that though the Respondent pleaded the Claimant was engaged on casual basis they did not prove the same on a balance of probability.

5. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant was an employee of the Respondent was admitted by the Respondent.

6. The Honourable Magistrate erred in law and fact by holding the termination of the Claimant s employment by the Respondent was not proved.

7. The Honourable Magistrate erred in law an d fact by assuming that the Claimant was being guided on what answers to give at trial.

8. The Honourable Magistrate erred in law and fact by ignoring the overwhelming evidence on record.

9. The Honourable Magistrate erred in law and fact by ignoring the overwhelming evidence to the effect the claimant was unfairly, unlawfully and un-procedurally terminated.

Background To The Appeal

10. The Claimant/Appellant filed a claim against the Respondent vide a memorandum of claim dated the 25th of May 2022 seeking the following orders: -

    a. A declaration that the Claimant's services were unprocedurally, unlawfully, and unfairly terminated and in the circumstances, the Claimant is entitled to compensation of his terminal dues.

    b. The sum of Kshs.336,758/- as set out hereinabove.

    c. Costs of this suit and interest at court rates from the date of filing suit until payment in full.

    d. Any other further relief that the court deems just and fit to grant (pages 4-6 of Appellant's ROA dated 7th May 2023).

11. The Claimant filed his list of witnesses dated 25th May 2022; witness statement of even date; and list of documents of even date with the bundle of documents attached (pages 8-19 of ROA).

12. The Respondent entered appearance and filed a memorandum dated 27th June 2022 (pages 20-23 of ROA). To support their response, the Respondent also filed a witness statement of PHILIP MUTUNE dated 21st September 2022 (pages 28-29 of ROA).

13. To counter the Respondent's memorandum, the Claimant filed a reply to defence dated 5th July 2022 (page 24 of ROA).

14. The Claimant/Appellant's case was heard on the 25th of April 2023 where the claimant testified in the case, relied on his filed witness statement as his evidence in chief, and produced his documents as exhibits. The Claimant was cross-examined by counsel for the Respondent, Mr. Ombati (pages 36-39 of ROA).

15. The Respondent's case was heard on 25th February 2023 with PHILIP MUTHAU MUTUNGI testifying on behalf of the Respondent. He relied on his filed witness statement as his evidence in chief, and produced the Respondent's documents as exhibits. The witness was cross-examined by counsel for the Claimant, Ms. Mutuku (pages 40-42 of ROA).

16. The court gave directions on filing of written submissions after the hearing, and both parties complied.

17. The Trial Magistrate Court delivered its judgment on the 11th of August 2023, dismissing the Claimant/Appellant's claim in its entirety, with an order that each party bears their own costs (judgment at pages 63-69 of ROA).

Determination

18. The appeal was canvassed through written submissions. Both parties filed.

Issues for determination

19. In his submissions dated 2nd October 2025, the Appellant identified the following issues for determination:

    a. Whether the Appellant established the existence of an employment relationship between himself and the respondent

    b. Whether the Appellant was unfairly, unlawfully and unprocedurally terminated.

    c. If the remedies sought by the appellant in the memorandum of claim should be granted.

20. On his part, the Respondent identified the following issues for determination:

    a. Whether the evidence adduced at the trial court was adequate to prove the Appellant's case beyond a balance of probabilities.

    b. Whether the grounds of Appeal are sufficient to warrant the prayers sought.

21. The court, having perused the grounds of appeal, was of the considered opinion that the issues for determination in the appeal were-

    a. Whether the trial court erred in finding no proof of continuous employment of the Appellant by the respondent the respondent.

    b. Whether the Appellant was unfairly, unlawfully and unprocedurally terminated.

Whether the trial court erred in finding no proof of continuous employment of the Appellant by the respondent the respondent

22. The grounds of appeal were –

    A. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant worked for the Respondent continuously for a period between February 2021 and December 2021.

B. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant's evidence to the effect that he worked continuously for the Respondent from February to sometime in December 2021 was not controverted.

C. The Honourable Magistrate erred in law and fact in failing to consider the aspect that though the Respondent pleaded the Claimant was engaged on casual basis they did not prove the same on a balance of probability.

D. The Honourable Magistrate erred in law and fact by ignoring the aspect that the Claimant was an employee of the Respondent was admitted by the Respondent.

23. This was a first appellate court. The Court of Appeal in Samuel Kalomit Murkomen v Telkom Kenya Limited [2017] eKLR aptly put out the role of the first appellate court as follows; "We shall however bear in mind that this Court will not lightly differ with the trial court on findings of fact because that court had the distinct advantage of hearing and seeing the witnesses as they testified and was therefore in a better position to assess the extent to which their evidence was credible and believable. Should we however, be satisfied that the conclusions of the trial judge are based on no evidence or on a misapprehension of the evidence on record or that the learned judge demonstrably acted on wrong principles, we are enjoined to interfere with those conclusions."

24. The trial court found no proof of continuous employment. The appellant pleaded that he was employed from February 2021 until 18th December 2021. To prove his employment, the appellant produced an introduction letter as a driver of the respondent to Multiple ICO Kenya Ltd received on the 30th May 2021, produced a loading order for Japhy Commercial Enterprises (the respondent)dated 24th February 2021 and a delivery note from Mombasa Cement Ltd. (page 4-19 of ROA was the appellant's case before the trial court). Conversely, the respondent contended that the appellant was a casual worker paid on an assignment-per-trip basis. The respondent did not produce any document. On perusal of the proceedings, the documents produced by the respondent on the employment were not controverted. The witness for the respondent said he could not say how long the appellant had worked; he told the court that the company kept records of casual and permanent workers. He did not produce any record. The respondent's witness was the supervisor of the Appellant and told the trial court that even he, did not have an employment letter since he was a casual worker. The witness told the trial court he had worked 2 to 3 years. The court concluded that the use of word casual in the description of employees by the respondent was not legal. An employee who has worked continuously for more than a month and further 2 months is deemed to have had his employment converted under section 37 of the *Employment Act*, to wit: '37. (1) Notwithstanding any provisions of this Act, where a casual employee—— (a) works for a period or a number of continuous working days which amount in the aggregate to the equivalent of not less than one month; or (b) performs work which can not reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paidmonthlyandsection35(1)(c)shall apply to that contract of service. (2) In calculating wages and the continuous working days under subsection (1), a casual employee shall be deemed to be entitled to one paid rest day after a continuous six-day working period, and such rest day or any public holiday which falls during the period under consideration shall be counted as part of the continuous working days. (3) An employee whose contract of service has been converted in accordance with subsection (1), and who works continuously for two months or more from the date of employment as a casual employee, shall be entitled to such terms and conditions of service as he would have been entitled to under this Act had he not initially been employed as a casual employee." In the dispute, it was only the appellant who produced evidence of the employment relationship. The evidence by way of documents spanned several months of employment and was

not controverted. The respondent, as custodian of employee records, could have produced the alleged lists of casual and permanent workers to controvert the documents produced by the appellant. The court finds that the appellant proved, on a balance of probabilities, his employment as a driver for the respondent from February 2021 to 18th December 2021.

25. Whether the Appellant was unfairly, unlawfully and unprocedurally terminated.

Appellant's submissions

26. The appellant at trial testified that he was dismissed without notice whereas dw-l at cross -examination testified that, the appellant was discontinued because he caused the respondent a lot of loss. On further cross -examination, dw-1 told court that the appellant didn't return to work that he thinks the appellant left employment upon realizing he had caused the respondent a lot of loss which allegation the appellant denied. It's our submissions that, even supposing the appellant absconded duty which is not the case, the respondent still had a duty to subject the appellant to a disciplinary process, which they never did. They did not issue a notice to show cause as to why the appellant should not be terminated for absconding duty and neither did, they give the appellant a chance to be heard, they cannot there be heard to say the claimant left, never came back or even absconded duty. We moreover submit that the respondents, having failed to even report the alleged theft (fuel siphoning) to the police, cannot later purport their reason for discontinuing the appellant was because he stole or siphoned fuel. We as such submit that the reason for termination was not proved We urge court to consider Jummy Kinanja Wasike V Oxford University Press EA Limited [2016] KEELRC 1093 (KER) in which matter court held, The onus of proving reasons for termination/dismissal lies on the employer and the way of proving these reasons is by taking the Claimant through a disciplinary hearing process. In case of the Claimant, the Respondent failed to take him through an internal disciplinary process and therefore prove these reasons. There is no evidence that the Claimant was taken through a disciplinary process as envisaged under Section 41 of *Employment Act* which states as follows:- "(1). Subject to section 42 (1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.

    (2) Notwithstanding any other provision of this Part, an employer shall, before terminating the employment of an employee or summarily dismissing an employee under section 44 (3) or (4) hear and consider any representations which the employee may on the grounds of misconduct or poor performance, and the person, if any, chosen by the employee within subsection (1) make". The Claimant has denied ever misappropriating the Respondents' cash, and the Respondent's witness has admitted that the procedure adopted in a meeting of 19.5.2014 with the Claimant did not follow the procedure. The witness also stated that this was Claimant's 1 misconduct. Regarding other monies allegedly misappropriated, the witness indicated that only Enock could confirm it. What this means is that the reasons for the dismissal were not proved as envisaged and therefore the Respondents did not have valid reasons to dismiss the Claimant and neither did they follow due process. They never even issued the Claimant a letter of dismissal or termination. It is therefore this Court's finding that the counter-claim is not proved and it is dismissed accordingly with costs to the Claimant.....

    Moreover, in Judith Atieno Owuor v Sameer Agriculture and Livestock Limited [2020] KEELRC 609 (KLR) court held that;-"Further, even if she had absconded, she is by law entitled to a fair disciplinary process as set out in Section 41 of the *Employment Act*, 2007. No evidence was availed to the Court to support their having been a disciplinary process or notice issued prior to the termination. It is the

duty of the Respondent to show this Court it did accord the Claimant a fair hearing prior to her termination." In the case of Felistas Achelia Ikatwa v Charles Peter Otieno (2018) eKLR it was held:- "The law is therefore well settled that an employer claiming that an employee has deserted duty must demonstrate efforts made towards getting the employee to resume duty. At the very least, the employer is expected to issue a notice to the deserting employee that termination of employment on the ground of desertion is being considered." In the case of Walter Ogal Anuro v Teachers Service Commission (2013) eKLR the Court held that-".... For a termination of employment to pass the fairness test, there must be both substantive justification and procedural fairness. Substantive justification has to do with establishment of a valid reason for the termination while procedural fairness addresses the procedure adopted by the employer to effect the termination. In the present case, I find no evidence of either desertion of duty or fair termination by the respondent. I thus find that the termination of the claimant's employment was unfair, both substantively and procedurally."

Respondent's submissions

27. Whether evidence adduced at the trial court was adequate to prove the Appellant's case beyond a balance of probabilities. Your honour, we submit that the trial court's decision to find the case was not proved on a balance of probabilities was justified and based in law. Evidence is critical to prove any case before a court of law. We reiterate our earlier position that the Appellant herein took a few casual intermittent engagement as a driver and was paid by the Respondent upon completion of each trip. The basis for our argument is section 47 (5) of the *Employment Act* which provides that:- For any complaint of unfair termination of employment or wrongful dismissal the burden of proving that an unfair termination of employment or wrongful dismissal has occurred shall rest on the employee, while the burden of justifying the grounds for the termination of employment or wrongful dismissal shall rest on the employer. In the trial court the Appellant did not show any proof of employment. The Appellant did not produce either any contract of employment between the parties to the suit, there was no letter of appointment or any other proof necessary to enable the court grant the prayers sought. In a similar appeal i.e. Mwandebe v Highland Creameries & Food Limited (Appeal E046 of 2022) [2023] KEELRC 1927 (KLR) (29 June 2023), Justice M. Mbaru had the following to say (paragraph 20, 21 & 22); "...Without proof of employment, the appellant claiming constructive dismissal, such then was lost. The learned magistrate analysed the evidence and found there was no employment. the appellant filed record and his evidence was that there was a distributor, Nyachieng'a Nyakerario and who paid him and not the respondent. Despite the respondent not attending or filing any responses to the appeal, the finding of the trial court cannot be faulted. Without proof of employment, the appellant having been employed as a sales man, the fact of him being under a distributor, this is not a proper employment claim against the respondent. the learned magistrate made a correct finding in this regard and the claim properly dismissed. The appeal is found without merit and is hereby dismissed. Each party to bear own costs. From the above case we see that despite there being no response the court still went ahead and found that the reliefs sought by the Claimant would not be granted as evidence adduced was not sufficient. To buttress our argument, I would like to site key provisions in the *Evidence Act* of Kenya particularly sections 107, 108 & 109. Section 107 of the *Evidence Act* states that: (1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist. (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person. Section 108 of the *Evidence Act* provides that: The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. Section 109 of the *Evidence Act* states that: The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person. In addition, I would like to bring the court's attention to the case of Nyangala v Vihiga County Government (Cause 6 of 2023)

[2023] in which Justice Jemimah Keli stated the following; "...The claimant told a story of having been called by phone by the former Governor Akaranga to a meeting allegedly arranged by a friend where they agreed on setting up a radio station and she alleged to have been promised to be issued with a letter of appointment as radio producer Job Group J...The Claimant's story of having been engaged or promised engagement by the former Governor does not hold water as it was not collaborated by any document or independent witness and lacks support of the law. The claimant on amending her claim produced an application letter which had no evidence of having been received by the respondent and neither was the said advert produced which was denied in the statement of defence by the respondent. The said application and resume had no relevance to the claim as an application for employment does not confer legitimate expectation of employment right to the applicant." Subsequently, the Judge in the above case went ahead in her conclusion in paragraphs 32 & 33 of the above case to state the following; "...The Claimant must establish the existence of facts of any of the above disputes under section 12 of the Employment and *Labour Relations Act* for the court to consider award of the reliefs sought. The claimant in the instant case having failed to establish the employee- employer relationship with the Respondent to support her claim, the court has no jurisdiction to grant any of the reliefs sought. Further the court found no merit in the entire claim. In the upshot the Memorandum of claim amended on the 26th October 2022 is dismissed." From the aforementioned authorities, we deduce that the one who alleges must prove. The claim at the trial court did not disclose any proof that the Appellant received for drivers any that salary is Kshs. despite asking the court to adopt the minimum wage applicable work days, the hours 30,627/-. Further, the Claimant could not ascertain his he was working for the Respondent or any crucial terms established by the alleged employment relationship. investigate In Joseph Munene Murage Vs Salome Ndung'u (2019) eKLR, the court sought to whether there the employment relationship between the adverse parties in order to find was a claim. In its wisdom, the court stated; "...The determination of the other heads of claims advanced by the Claimant will depend on whether the court finds that there was an employment relationship. Regrettably, this is one of the cases where it is purely the word of the Claimant as against that of the Respondent....The Claimant further stated that he met the Respondent through a bureau where he had left his number in the event someone would be interested to hire him. The Claimant however failed to secure the attendance of any witness from the bureau to ascertain the fact that he was referred to the Respondent by the agency, or to submit any other evidence to corroborate his evidence...It was thus the burden of the Claimant to prove the existence of an employment relationship and the unfair termination thereof. Having failed to prove the existence of an employment relationship the claim has no leg to stand and must fail...." It is worth noting that there is a standard of proof required in civil cases. Courts have established the standard in subsequent cases which have set precedence. In the matter of Stanley Maira Kaguongo Vs Isaac Kibiru Kahuthia (2022) eKLR; the court in paragraph 29 stated that; "...The standard of proof in cases is the legal standard to which a party who holds the burden of proof is required to proof his/her case....In civil cases, such as the present one, the standard of proof is the balance of probabilities..." On whether Evidence adduced at the trial court was enough to grant prayers sought, we submit that the evidence did not prove any employment relationship and thus the present appeal should be dismissed. 2. Whether the grounds of Appeal are sufficient to warrant the prayers sought. Your Honour, we humbly submit that the grounds listed in the memorandum of appeal are not sufficient to warrant this court to issue the prayers sought. The *Employment Act* defines an employee in section 2 as "a person employed for wages or a salary and includes an apprentice and indenture learner." In contrast, a casual labourer is defined under section 2 of the same Act as "as a person whose engagement provide for his payment at the end of each day and who is not engaged for a longer period than twenty-four hours at a time." During cross-examination it was established that the Appellant was a casual labourer who engaged the respondent intermittently and not continuously as alleged. In addition, there was no corroboration on his part as was needed to prove that he was employed and/or

there was an employment relationship between him and the Respondent herein. I would like to bring the courts attention to the case of Transport Workers Union Vs Euro Petroleum Products & Another (2019) eKLR. In this case, the court held that "...the Claimant ought to have at least established that there was an employment relationship between the grievants and the Respondents before the has Respondent failed to prove would be called upon to produce records. The Claimant herein grievants and the existence of an employment relationship between the Respondents. In the absence of an employer-employee relationship of employment the court is not in a position to consider the issue of termination under the *Employment Act*." The grounds relied by the appellant herein depend on whether there was an employment relationship between the parties to this suit. We have demonstrated that the Appellant was not employed by the Respondent. The upshot of this is that the trial court was correct to rule that there was no employment relationship between the parties to this suit as evidence to prove the same was inadequate.

28. The relevant grounds of appeal were –

    a. The Honourable Magistrate erred in law and fact by holding the termination of the Claimant s employment by the Respondent was not proved.

    b. The Honourable Magistrate erred in law an d fact by assuming that the Claimant was being guided on what answers to give at trial.

    c. The Honourable Magistrate erred in law and fact by ignoring the overwhelming evidence on record.

    d. The Honourable Magistrate erred in law and fact by ignoring the overwhelming evidence to the effect the claimant was unfairly, unlawfully and un-procedurally terminated.

29. The appellant told the trial court that on the 18th December 2021, he was told to leave and would be called back. He was not called. The respondent on the separation, responded in paragraph 5 of the witness statement of its witness, Philip Mutune, as follows- 'the Claimant stopped taking any casual engagements after taking off with mileage encashment for a trip, causing damage to our client's vehicle, engaging in syphoning of fuel, all activities which caused the Respondent actual loss for a sum of Kshs. 229,377/- and your client is duly aware of the facts. Ours reserves right to counterclaim for the same." There was no evidence placed before the court of the foregoing allegations, as correctly held by the trial court. The court finds the reason for the termination was not justified. There was no proof of procedural fairness according to section 41 of the *Employment Act*. The threshold for determination of fairness of termination of employment is according to the provisions of section 45 (2) of the *Employment Act* to wit:- '45(2) A termination of employment by an employer is unfair if the employer fails to prove—

    (a) that the reason for the termination is valid

    (b) that the reason for the termination is a fair reason—

        (i) related to the employees conduct, capacity or compatibility; or

        (ii) based on the operational requirements of the employer; and

    (c) that the employment was terminated in accordance with fair procedure." To pass the fairness test the termination must pass the substantive (in terms of reasons) fairness and the procedural fairness under section 41 of the *Employment Act* (Walter Ogal Anuro v Teachers Service Commission[2013] eKLR). The court finds the trial court erred in failing to find unfair termination after its conclusion that the employer never followed up with the claimant on the damages he alleged to have suffered as a result of the claimant's actions. The appellant was told

to go home on 18th December 2021, never to be called back for the reason given by the employer for the alleged losses, of which the appellant was not given a notice to show cause. (paragraph 1 at page 65 of ROA). In the upshot, the court, as the first appellate court, on re-evaluation of the evidence before the trial court, held that the termination of the claimant's employment was unlawful and unfair.

Whether the appellant was entitled to relief sought

30. In the claim, the appellant had sought for –

    a. a declaration that the Claimant's services were unprocedurally, unlawfully, and unfairly terminated, and in the circumstances, the Claimant is entitled to compensation of his terminal dues.

    b. The sum of Kshs.336,758/- as set out hereinabove.

    c. Costs of this suit and interest at court rates from the date of filing suit until payment in full.

    d. Any other further relief that the court deems just and fit to grant (pages 4-6 of Appellant's ROA dated 7th May 2023).

31. The court on appeal held that the appellant's employment was continuous, he was employed as a driver, the employment was terminated on 18th December 2021 without justification and unprocedurally. The appellant is entitled to notice pay of 1 month, which is awarded for the sum of Kshs. 23,000 as sought, having been cross-examined on the salary and the respondent, having not produced employment payment records.

32. On the claim for December salary- The evidence before the court was that the appellant worked for 18 days in December and that is what he was entitled to be paid for, thus 18/30x 23000, thus Kshs. 13,800.

33. Compensation- On finding unfair termination based on an unjustified reason, the court is obliged to award remedies under section 49 of the *Employment Act*. The appellant sought a remedy of maximum compensation equivalent to 12 months' salary. The court is to apply the factors in section 49(4) of the *Employment Act*. The appellant had worked for 11 months. There was no reason why he could not secure a similar job in the market. The court, taking the foregoing into account, awards the equivalent of 2 months' salary as compensation in addition to the notice pay.

34. Leave pay- an employee is entitled to a minimum of 21 days of annual leave under section 28 of the *Employment Act*. The appellant sought prorated leave. The employer did not place evidence in court of having granted the appellant annual leave. The same is awarded on a pro rata basis as sought Kshs. 14758.

Conclusion

35. The appeal is allowed. The Judgment and Decree of the Hon. F. Makoyo (PM) given on 17th August 2023 in Kilungu MELRC No. E001 of 2022 is set aside and substituted as follows-

    a. Notice pay of 1 month salary - Kshs. 23,000

    b. Compensation equivalent of 2 months gross salary Kshs. 46000

    c. Salary of 18 days worked in December 2021, KShs. 13,800

    d. Prorated leave pay Kshs, 14758

e. The above total sum of Kshs. 97,558 is awarded with interest at court rate from date of judgment until payment in full.

f. costs of the suit.

36. The appellant is awarded costs in the appeal against the respondent.

DATED, SIGNED, AND DELIVERED IN OPEN COURT AT MACHAKOS THIS 6TH DAY OF FEBRUARY, 2026.

J.W. KELI,

JUDGE.

In The Presence Of:

Court Assistant: Otieno

Appellant – Kemonto h/b Mutuku

Respondent- Mwaka