

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT NAKURU  
APPEAL NUMBER E007 OF 2024**

**BETWEEN**

MARIDADI FLOWERS LIMITED .....APPELLANT

**AND**

EZEKIEL WALWANDA KHISA .....RESPONDENT

[ An Appeal from the Ruling of Hon. K.I. Orange P.M. dated and delivered on 20th September 2023 in Nakuru ELRC Miscellaneous Application E167 of 2023, between the Parties herein]

*Rika J*

*Court Assistant: Emmanuel Kiprono*

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*Wachira, Wekhomba AIM & Associates, Advocates for thee Appellant*

*M.Korongor & Company Advocates for the Respondent*

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**JUDGMENT**

1. The Principal Magistrate's Ruling, subject matter of the Appeal herein, is indicated to have been made on different dates.
  
2. In the Appellant's submissions dated 7th November 2025, the Ruling is indicated to have been delivered on 28th September 2023.

3. The Memorandum of Appeal refers to a Ruling delivered on 20th September 2023.
4. The actual Ruling indicates that it was delivered on 25th September 2023.
5. The Memorandum of Appeal dated 13th February 2024, initiating the Appeal is incompetent. It relates to a Ruling delivered on 20th September 2023. The Court has been prayed to review and/or set aside the Ruling/Order dated and delivered on 20th September 2023. There is no such Ruling/Order in the record.
6. The Ruling dated 25th September 2023, if it can be presumed to be the subject matter of the Appeal, dismissed an application filed by the Appellant dated 11th July 2023.
7. The Respondent had applied for enforcement of an award made in his favour, by the WIBA Director, through an application dated 13th June 2023.
8. The Principal Magistrate allowed the application for enforcement, warranting the Appellant to file the application dated 11th June 2023, to set aside the enforcement orders.

9. The Principal Magistrate dismissed the application, finding that there was an award by the Director WIBA, dated 25th May 2018 and that, there was an appeal lodged at the E&LRC, which was dismissed.
10. The Appellant herein filed Memorandum of Appeal containing 5 general grounds of appeal. Its position is that the Principal Magistrate did not grant the Appellant a fair hearing; the application for enforcement dated 13th June 2023 proceeded *ex parte*; the Principal Magistrate did not exercise his discretion judiciously; he applied wrong principles; and misdirected himself.
11. Parties agreed to have the Appeal considered and determined on the strength of the Record of Appeal and Submissions. They confirmed filing and exchange of Submissions at the last appearance before the Court, on 30th January 2026.

**The Court Finds: -**

12. The Ruling appealed against, as observed at the outset, bears different dates, and the Appeal is therefore fatally defective.
13. Even were the Court to consider the merits of the Appeal, on the presumption that the Appeal relates to the Ruling delivered on 25th September 2023, it is not likely that the Court would allow the Appeal.

14. The award by WIBA Director, at the centre of the Principal Magistrate's Court proceedings, was made way back in 2018, some 8 years ago.
15. If it was to be challenged, it ought to have been challenged by the Appellant years ago, under Section 52 of WIBA.
16. Barring that challenge, it is logical that the award ought to have been enforced, to meet the objectives of WIBA.
17. The procedure for challenging awards of the Director WIBA, under the Act provides for strict timelines.
18. It was not intended by Parliament that assessment, appeal and enforcement processes under WIBA, take as many as 8 years.
19. There could have been some procedural missteps, in handling of the Miscellaneous Application E167 of 2023, as submitted by the Appellant.
20. It was improper to proceed with the hearing *ex parte*. Even through the award had been pending enforcement for long, it was not right to proceed with the hearing and grant orders, without the participation of the Appellant.
21. On whether the Principal Magistrate had jurisdiction to enforce WIBA award, it is the view of the Court that the position had not been clarified,

until the Court of Appeal delivered its decision in **Charles v. Cheto, KECA 784 [KLR]**, on 9th May 2025.

22. It was clarified that enforcement is at the E&LRC.
23. The Principal Magistrate did not have the benefit of this clarification, at the time the enforcement orders were made.
24. The Appellant expands its grievance on appeal, to an issue concerning the geographical jurisdiction of the Principal Magistrate, Nakuru. In the submissions, the Appellant states that the award of WIBA Director, issued at Naivasha, and enforcement should have been sought at Naivasha.
25. This was not one of the grounds in the Memorandum of Appeal. There was nothing to bar a Magistrate sitting in the same County where the award was made, from acting on the award, when called upon to act.
26. The submission is without merit, and is not part of the grounds stated in the Memorandum of Appeal.
27. An Appellant must always state before the Court specific grounds of appeal, and stick by those grounds, on prosecuting the Appeal.

28. In the end, the Court declines to disturb the Ruling delivered by the Principal Magistrate. The award of the Director WIBA was made 8 years ago, and ought not to be the subject matter of prolonged litigation. If there was an appeal against it, the appeal ought to have been made and finalized years back, under Section 52 of WIBA. If the Appellant was excluded from the proceedings of the Principal Magistrate's Court on enforcement of the award, this Court can only express its regret and extend an apology to the Appellant on behalf of the entire Judiciary. It would not make any sense to vacate the orders enforcing the award, and directing that Parties are re-heard on enforcement. Litigation must be brought to a halt, the award having issued 8 years ago.
29. The Court finds no merit in the Appeal. The Appeal is fatally defective, as it is directed at a non-existent Ruling.

**IT IS ORDERED: -**

- a. The Appeal is declined.***
- b. No order on the costs.***

Dated, signed and delivered electronically at Nakuru, under Rule 68[5] of the E&LRC [Procedure] Rules, 2024, this 27th day of February 2026.

James Rika

Judge