

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
(CIVIL DIVISION)

MISC APPLICATION NO E353 OF 2025

STELLA WANDOE.....APPLICANT

Versus

MICHAEL NATORESPONDENT

RULING

1. The applicant has moved this Court vide a Notice of Motion dated **24th November 2025**. She seeks the exercise by this Court of its supervisory jurisdiction under Articles 165 (6) & (7) of the Constitution of Kenya 2010. Her grounds for doing so are that the respondent, through its agents, proclaimed and sold her goods at a price she avers was worth half their true value; she contended that the auction was illegal, irregular, and conducted at gross under value. That notwithstanding, the respondent had gone ahead to take out warrants for her arrest in execution of the same decree.
2. The application was opposed. The respondent counsel, Mr. Akanga Alera, made a deposition on **28th November 2025** in which he stated that the averments made in the application were also made in the Court below. The small claims Court dismissed the application. He averred that the supervisory jurisdiction of the High Court had been wrongly invoked. In his view, the applicant should either have filed a judicial review application or appealed against the impugned

decision. Counsel contended that this Court had no jurisdiction in any event, as the matter in the court below had already been concluded.

3. The issue, as far as I can tell, is the extent of supervisory jurisdiction of the High Court over subordinate Courts. Article 165(6) and (7) of the Constitution states that:

“6. The High Court has supervisory jurisdiction over the subordinate Courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior Court.

7. For the purpose of clause (6), the High Court may call for the record of any proceedings before any subordinate Court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.”

4. It is trite law that the High Court’s supervisory jurisdiction over the subordinate Courts should be exercised sparingly and only in exceptional circumstances.
5. Mativo, J (as he then was) elaborated on the difference between the appellate jurisdiction of the High Court and its supervisory jurisdiction in the case of **Republic v Chief Magistrate’s Court at Milimani Law Courts & 2 others Ex-parte Pravin Galot & another [2017] KEHC 8982 (KLR)**. In the said case, the learned judge stated that:-

“59. There is a clear distinction between supervisory jurisdiction, judicial review jurisdiction and appellate jurisdiction. Supervisory jurisdiction refers to the power of superior courts of general superintendence over all subordinate courts. Through supervisory jurisdiction, superior courts aim to keep subordinate courts within their prescribed sphere, and prevent usurpation. In order to exercise such control the power is conferred on superior courts to issue the necessary and appropriate writs

60. This power of superintendence conferred by Article 165 (6) of the Constitution, as pointed out by Harries, C.J. in *Dalmia Jain Airways Ltd. v Sukumar Mukherjee* , [43] is to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors. This power involves a duty on the High Court to keep the inferior courts and tribunals within the bounds of their authority and to see that they do what their duty requires and that they do it in a legal manner. But this power does not vest the High Court with any unlimited prerogative to correct all species of hardship or wrong decisions made within the limits of the jurisdiction of the Court or Tribunal. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principle of law or justice, where grave injustice would be done unless the High Court interferes. As the Supreme Court of India stated unless there was any grave miscarriage of justice or

flagrant violation of law calling for intervention, it is not for the High Court under Article 165 (6) of the Constitution to interfere.”

6. It is evident that the supervisory jurisdiction exists to keep the subordinate Courts within their jurisdictional bounds. It is not for the correction of errors. It is restricted to situations where an interior Court engages in grave dereliction of its duty or flagrant abuse of fundamental principles of law or justice, and where a great injustice would occur unless the High Court interfered.
7. I am not persuaded that there was a grave dereliction of duty in this case or that flagrant abuse of fundamental principles of law and justice has been shown. To the contrary, the Court below, in its ruling of **4th November 2025**, considered all issues raised, including the legality of the execution by way of committal to civil jail, and came to the conclusion that such a remedy was lawful and that the said Court could issue the orders sought.
8. Whereas the applicant was understandably aggrieved, as her liberty was on the line, the remedy lay elsewhere, by way of an appeal to the High Court.
9. In the case of the **National Social Security Fund v Sokomania Ltd & Chief Magistrate’s Court Milimani [2021] KEELC 1639 (KLR)**, it was held that supervisory power should not be exercised where there

is an alternative remedy. The applicant has an alternative remedy that she hasn't sought.

10. The applicant has alternative remedies which she is at liberty to utilize. In this case threshold for the exercise of supervisory jurisdiction hasn't been met. The application must fail.
11. In the circumstances, I dismiss the Notice of Motion dated **24th November 2025** with costs.
12. It is so ordered.

Dated and signed in Mombasa, this 13th day of February, 2026.

Delivered virtually through **Microsoft TEAMS**.

Gregory Mutai

JUDGE

In the presence of:

Mr. Paul Magolo, for the Applicant;

Mr. Akanga Alera, for the Respondent; and

Bancy – Court Assistant.