



**Stanbic Bank of Kenya Limited v Mutia Muindu t/a Mutibra Auctioneers & 2 others  
(Civil Appeal 207 of 2018) [2024] KECA 490 (KLR) (9 May 2024) (Judgment)**

Neutral citation: [2024] KECA 490 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPEAL 207 OF 2018  
SG KAIRU, F TUIYOTT & GWN MACHARIA, JJA  
MAY 9, 2024**

**BETWEEN**

**STANBIC BANK OF KENYA LIMITED ..... APPELLANT**

**AND**

**MUTIA MUINDU T/A MUTIBRA AUCTIONEERS ..... 1<sup>ST</sup> RESPONDENT**

**MAURICE M. MUNYAO & 148 OTHERS ..... 2<sup>ND</sup> RESPONDENT**

**E. TIMOTHY T/A TIPTOP AUCTIONEERS ..... 3<sup>RD</sup> RESPONDENT**

*(Being an appeal against the judgment of the employment and Labour Relations Court of Kenya at Nairobi (M. Onyango, J.) dated 2nd March 2018 in ELCR Petition No. 47 of 2016)*

**JUDGMENT**

1. In a decision dated 2<sup>nd</sup> March 2018, which is the subject of this appeal, Maureen Onyango, J. held:

“More fundamentally, the subject matter of the petition is not employment related, nor is there an employment relationship between the parties. The petition is between a Bank and an Auctioneer over execution of a garnishee order.

Although the facts giving rise to the petition originate from orders of this court, this court can only handle the subject if brought within the suits pending in the court but not as an independent suit. This court therefore is not clothed with jurisdiction under Article 162 (2) to determine the same.”

2. None of the 9 grounds of appeal in the memorandum of appeal dated 25<sup>th</sup> June 2018 challenges this central holding by the trial court, and when, in the submissions Mr. Allen Gichuhi Senior counsel for the appellant sought to condense the appeal into 4 grounds, he did not state that any was on the jurisdictional question.



- 3. The 1<sup>st</sup> respondent was quick to notice this omission and its counsel submitted that as there was no appeal against the finding of the superior court below that it had no jurisdiction, the whole appeal must necessarily collapse.
- 4. We agree. Whatever we think of that finding, it remains unimpeached as it has not been challenged in this appeal. Even if we were to uphold all the 9 grounds, condensed to 4, the appeal will still have to fail because of the trial court’s finding that it was bereft of jurisdiction to hear the matter. The appellant has placed an insurmountable hurdle on its path.
- 5. The appeal has to fail. It is hereby dismissed with costs to the 1<sup>st</sup> and 2<sup>nd</sup> respondents as the appeal against the 3<sup>rd</sup> respondent has been marked as withdraw with no order to costs.

**DATED AND DELIVERED AT NAIROBI THIS 9TH DAY OF MAY 2024.**

**S. GATEMBU KAIRU, FCIArb.**

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**JUDGE OF APPEAL**

**F. TUIYOTT**

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**JUDGE OF APPEAL**

**F. W. NGENYE-MACHARIA**

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**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

