



**Rotich v Mogogosiek Tea Factory (Appeal E004 of 2021)
[2024] KEELRC 638 (KLR) (20 March 2024) (Directions)**

Neutral citation: [2024] KEELRC 638 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
APPEAL E004 OF 2021
DN NDERITU, J
MARCH 20, 2024**

BETWEEN

ELIJAH KIPKEMOI ROTICH APPELLANT

AND

MOGOGOSIEK TEA FACTORY RESPONDENT

DIRECTIONS

1. After the court retreated to write judgment in this appeal, I noted the following –
 - i. The original lower court trial file was not availed and efforts to have the same traced and delivered have yielded naught.
 - ii. The memorandum of appeal in the record of appeal introduces the appeal as against a ruling by Hon. E.K. Makori(CM) dated June 15, 2022, and in the same breath challenges a ruling by Hon. S.M. Mokuia dated June 15, 2022.
 - iii. The prayer in the memorandum of claim is that the ruling of Hon. E.K. Makori (CM) delivered on 15th June, 2021 be set aside.
 - iv. Variously, the memorandum of appeal makes reference to the original trial lower court file as Kericho CMCC ELRC No. 8 of 2020 and also No. 22 of 2020.
2. In the foregoing circumstances, it is not legally possible or logical for this court to render a proper judgment in the matter.
3. Were it not that the anomalies aforestated are not attributable to the appellant personally, the court should have proceeded to strike out the appeal for being incompetent.



4. However, in the interest of justice, noting that the mistakes and or anomalies cited above are attributable either to counsel or the court registry, the court shall issue the following directions with a view of salvaging the appeal –
- i. The Deputy Registrar/Registry shall within 7 days hereof obtain and attach the trial lower court file herewith.
 - ii. The appellant is granted 30 days to file an amended memorandum of appeal and a supplementary record of appeal.
 - iii. Mention on 11th June, 2024 for further orders and or directions.

DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 20TH DAY OF MARCH, 2024.

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DAVID NDERITU

JUDGE

