



REPUBLIC OF KENYA



**Muchiri v Ciera (Environment and Land Appeal E095 of 2024)
[2024] KEELC 7325 (KLR) (29 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 7325 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND APPEAL E095 OF 2024
MD MWANGI, J
OCTOBER 29, 2024**

BETWEEN

MICHAEL MUCHIRI APPELLANT

AND

BILLY NGUGI CIERA RESPONDENT

(In respect of the preliminary objection by the Respondent dated 18th July 2024)

RULING

Background

1. The preliminary objection by the Respondent is premised on six grounds;
 - i. That the Honourable Court's jurisdiction has been wrongly and improperly invoked;
 - ii. No appeal has been filed in the Environment and Land Court against a decision of the Business Premises Rent Tribunal (BPRT);
 - iii. That an appeal cannot be raised by way of a Notice of
 - iv. The provisions of sections 15 (4) of Cap 301 do not envisage the current application;
 - v. That the application is incompetent otherwise an abuse of the process of court; and
 - vi. That the application is ambiguous and fatally defective and the same should be struck out with costs.

Determination

2. The appeal herein was initiated by way of a Memorandum of Appeal dated 10th July 2024. The appeal is against the ruling and order of Honourable Cyprian Mugambi in BPRT Case No. E373/2024



delivered on 28th June 2024. The appeal was filed within the 30 days' window provided for under the *Civil Procedure Act* and Rules. The appeal complies with both the provisions of Section 79G of the *Civil Procedure Act* and Order 42 rule 1 of the Civil Procedure Rules.

3. The preliminary Objection by the Respondent is therefore without any basis. It is dismissed with costs to the Appellant against the Respondent.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29TH DAY OF OCTOBER 2024.

M.D. MWANGI

JUDGE

In the virtual presence of:

Mr. Wakasa Were for the Appellant

Mr. Ngotho for the Respondent

Court Assistant: Yvette

M.D. MWANGI

JUDGE

