



REPUBLIC OF KENYA



**Wachira & another v Family Bank Limited & another (Commercial Case E080 of 2025)
[2025] KEHC 1451 (KLR) (Commercial and Tax) (31 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 1451 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E080 OF 2025
MN MWANGI, J
JANUARY 31, 2025**

BETWEEN

GEORGE WACHIRA 1ST PLAINTIFF

MARGARET WAIRIMU KARANJA 2ND PLAINTIFF

AND

FAMILY BANK LIMITED 1ST RESPONDENT

VIEWLINE AUCTIONEERS 2ND RESPONDENT

RULING

1. Having heard the Advocate for the applicants who states that they have moved this Court under its supervisory jurisdiction, I beg to differ, as that cannot be legally correct. I say so because in both the 1st and 2nd applications filed by applicants before the High Court, there is no evidence that the Trial Court has overreached itself in decision making, which would call for this Court to exercise its supervisory jurisdiction under Article 165(6) of the *Constitution of Kenya*.
2. What the applicants seek from this Court are injunctive orders, for which the Chief Magistrate's Court is seized with the jurisdiction to determine, after HCCOMM No. 258 of 2014 was transferred to the Chief Magistrate's Court and assigned MCCOMM No. E1172 of 2024.
3. The Chief Magistrate's Court is as such seized with the requisite jurisdiction of hearing of the main suit and any applications that may arise. As it stands, there is no suit pending before the High Court for hearing and determination.
4. If this Court was to grant an interim injunction for a matter pending before the Chief Magistrate's Court, it would not only be unprocedural but also unlawful. It would be akin to a High Court granting



at the first instance bail/bond to an accused person before the Magistrate's Court has considered an application for bail/bond for the said accused person in a matter before the said Court.

5. The applicants' approach to the whole matter is erroneous. Faced with a situation where a Magistrate has allegedly not acted on a certificate of urgency for 11 days from the date of filing, the applicant's first port of call should have been to the Head of the Commercial Division in the Chief Magistrate's Court, and if that had failed to yield any action, then the applicants could have written to the Presiding Judge Commercial & Tax Division who has administrative supervisory powers over the Magistrate's Court in Milimani Commercial & Tax Division. The Presiding Judge would have acted in one way or the other to deal with the complaint, administratively.
6. The application before me today is for review of the directions that I gave in the earlier application of 27th January 2025. I did not grant any orders in that application. I did not hear Counsel for the applicants addressing this Court on the principles applicable in an application for review under Section 80 of the *Civil Procedure Act*, and Order 45 Rule 1 of the *Civil Procedure Rules*, 2010 to show that there is an error apparent on the directions that I gave on 28th January 2025.
7. As it stands, I am not seized with the jurisdiction to deal with a matter which the Chief Magistrate's Court has not dealt with as a Court of first instance.
8. I cannot therefore grant an order of injunction or even review my earlier directions. The application is struck out for being incompetent.
9. I direct that the case file be marked as closed.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 31ST DAY OF JANUARY, 2025.
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

NJOKI MWANGI

JUDGE

In the presence of:

Mr. Masungu for the applicant

No appearance for the respondent

Ms B. Wokabi – Court Assistant.

