



REPUBLIC OF KENYA



**Omondi v Endovo (Civil Appeal E996 of 2024)
[2025] KEHC 11738 (KLR) (Civ) (4 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 11738 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E996 OF 2024

WM MUSYOKA, J

AUGUST 4, 2025

BETWEEN

HIRAM OMONDI APPELLANT

AND

ANDREW ENDOVO RESPONDENT

(Appeal from judgement and decree of Hon. Barbara A. Akinyi, Resident Magistrate and Adjudicator, of 31st July 2024, in Nairobi SCCC No. E2582 of 2023)

JUDGMENT

1. The suit, at the primary court, was initiated by the respondent, against the appellant, for recovery of a sum of Kshs. 900,000.00, for services rendered. The claim was resisted by the appellant, who counter-claimed for Kshs 1,000,000.00
2. The claim was canvassed orally, by viva voce evidence. Both sides testified. Judgement was delivered, on 31st July 2024, in favour of the respondent.
3. The appellant was aggrieved, hence this appeal. The grounds revolve around the trial court not issuing a judgement notice; trial rights being denied; failure to find that the case against the appellant had not been proved on a balance of probability; among others.
4. Directions were taken on 19th November 2024 and 18th February 2025, before the Deputy Registrar, for filing of written submissions. Both sides have complied. I have read through the said submissions and noted the arguments.
5. Before I advert to the merits of the appeal, let me first address a preliminary issue, which the parties have not dealt with, and which goes into jurisdiction. Is there a valid appeal before me?



6. The claim at the trial court was lodged in the nature of a small claim in the Small Claims Court. The Small Claims Court is established under the [Small Claims Court Act](#), Cap 10A, Laws of Kenya, to handle small claims, in a certain way, within certain timelines. It is a special court, with a special jurisdiction.
7. It is granted, under section 12, jurisdiction to handle a defined class of cases, and the instant one falls within that class. Its pecuniary jurisdiction is fixed at Kshs. 1,000,000.00 and below. Section 3 of the [Small Claims Court Act](#), and various other provisions, in the Act, pitch for expeditious disposal of the claims filed under the Small Claims Act, in the Small Claims Court. These set the background to section 34[1] of the [Small Claims Court Act](#), which vests the Small Claims Court with a limited jurisdiction of 60 days, from the date of the filing of the claim, to hear and determine the claim. Most of the subsections of section 34 lay out rules on how that can be achieved. Since jurisdiction is exercisable by the Small Claims Court within 60 days, it would follow that after the 60 days expire, the court would lose jurisdiction, and it would have no legal foundation or basis to continue to determine a matter after that.
8. It is not clear when the matter, in Nairobi SCCC No. E2582 of 2023 was filed. But the claim, and the accompanying filings, are dated 12th April 2023. It was placed before the Adjudicator for the first time on 4th May 2023. Judgement was delivered on 31st July 2024.
9. The question then is, did the court have jurisdiction, as at 31st July 2024, to deliver the judgement, or to determine the matter, in view of section 34[1] of the [Small Claims Court Act](#).
10. As the date of filing is unknown, if 4th May 2023 is taken as the effective date of filing, then, applying section 34 [1] of the [Small Claims Court Act](#), the 60 days began to run on that date, and should have expired on or about 4th July 2023. After 4th July 2023, the trial court lost jurisdiction to entertain the claim, and it certainly had no jurisdiction to deliver the judgement that it purported to on 31st July 2024. That judgement was a nullity, for being delivered by a court which had lost jurisdiction. As it was a null and void judgment, it cannot provide basis for a competent appeal, hence the appeal before me is incompetent. I have no jurisdiction to determine an appeal founded on a void judgement.
11. Consequently, I hereby strike out the null appeal. The respondent is not entitled to costs, for he obtained a null judgement. This appeal file to be closed. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 4TH DAY OF AUGUST 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

Ms. Carolyn Oyuse, Court Assistant, Milimani, Nairobi.

Mr. Were, instructed by AW Kahindo & Company, Advocates for the appellant.

Mr. Ngugi, instructed by Ngugi Mburu, Advocates for the respondent.

