



REPUBLIC OF KENYA



**KENYA LAW**

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**Mutua & another v Ismael (Civil Appeal E433 of 2024)  
[2025] KEHC 11671 (KLR) (Civ) (1 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 11671 (KLR)

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

**CIVIL**

**CIVIL APPEAL E433 OF 2024**

**WM MUSYOKA, J**

**AUGUST 1, 2025**

**BETWEEN**

**BOAZ MUTHUI MUTUA ..... 1<sup>ST</sup> APPELLANT**

**JOHN KILONZO ..... 2<sup>ND</sup> APPELLANT**

**AND**

**EDGER LIABAYA ISMAEL ..... RESPONDENT**

*(Appeal from judgement and decree of Hon. Andrew Gathu  
Njuguna, of 1st March 2024, in Nairobi SCCC No. E1444 OF 2023)*

**RULING**

1. While perusing this file, for the purpose of writing judgement, I have noted that it has never been placed before a Judge, for directions under Order 42 rule 13(1) of the Civil Procedure Rules. Nevertheless, the appellants did file submissions, even before directions were given to that effect.
2. The respondent has not filed written submissions, and given that directions have not been given, on how to dispose of the appeal, it would be premature to proceed before that step is taken, and the same ought to be done, with notice to the respondent.
3. An application has also been lodged herein, by the appellants, to arrest the judgement, with a view to have a supplementary record of appeal filed, before judgment is prepared or delivered. I will allow that application, dated 7<sup>th</sup> July 2025, in terms of prayer 3 thereof. Let the supplementary record of appeal be filed and served within 30 days from the date of his order.
4. For compliance with Order 42 rule 13(1) of the Civil Procedure Rules, I direct that this file be placed before the Deputy Registrar, who shall cause it to be placed before a Judge, with notice to the respondent, for directions on the disposal of the appeal. Orders accordingly.



**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 1<sup>ST</sup> DAY OF AUGUST 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

Messrs. Rom Law Advocates LLP, Advocates for the appellant.

