



**JBS ((Suing on Behalf of MJ (Minor) as the Next Kin)) v Kenya Wildlife Service & another  
(Tribunal Appeal 17 of 2022) [2023] KENET 1250 (KLR) (Civ) (30 January 2023) (Judgment)**

Neutral citation: [2023] KENET 1250 (KLR)

**REPUBLIC OF KENYA  
IN THE NATIONAL ENVIRONMENT TRIBUNAL - NAIROBI  
CIVIL**

**TRIBUNAL APPEAL 17 OF 2022**

**EMMANUEL MUMIA, CHAIR, WINNIE TSUMA, VICE CHAIR, KARIUKI  
MUIGUA, RONALD ALLAMANO & DUNCAN KURIA, MEMBERS**

**JANUARY 30, 2023**

**BETWEEN**

**JBS ..... APPELLANT  
(SUING ON BEHALF OF MJ (MINOR) AS THE NEXT KIN)**

**AND**

**KENYA WILDLIFE SERVICE ..... 1<sup>ST</sup> RESPONDENT  
MINISTERIAL WILDLIFE CONSERVATION AND COMPENSATION  
COMMITTEE ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

**Introduction**

1. Being aggrieved by the decision of the Ministerial Wildlife Compensation Committee rejecting the Appellant's claim for compensation, the Appellant filed his Notice of Appeal dated 31st May 2022 and filed on even date seeking the impugned decision to be set aside.
2. The 1st Respondent, the Kenya Wildlife Service entered appearance in the matter and filed a Reply to the Grounds of Appeal dated 22nd June 2022. At paragraph 4 of that Reply, the 1<sup>st</sup> Respondent raised a Preliminary Objection to the jurisdiction of this Tribunal to hear and determine the Appeal based on the limitation of time set out under Section 25(6) of the [Wildlife Conservation and Management Act](#).
3. The 2<sup>nd</sup> Respondent, the Ministerial Wildlife Compensation Committee, entered appearance in the matter and filed the 2nd Respondent's Reply to the Grounds of Appeal, which was dated 20<sup>th</sup> July, 2023. In this reply, the 2<sup>nd</sup> Respondent opposed the appeal stating that the rejection by MWCC of the



Appellants' claim for compensation is sound and in accordance with the law and that it was based on the inconsistencies in dates in all documents attached to the claim.

4. The appeal was canvassed by way of written submissions. We have perused the record and sighted the Appellant's submissions dated 6<sup>th</sup> November 2022 and the 1<sup>st</sup> Respondent's submissions dated 8<sup>th</sup> August 2022. The 2nd Respondent did not file any written submissions.

### Analysis and Determination

5. Having considered the Appellant's appeal, the 1st Respondent's written submissions and all other documents filed by the parties, and since the 1<sup>st</sup> Respondent has challenged the jurisdiction of the Tribunal to hear and determine the Appeal, we shall consider this issue first.
6. Section 25(6) of the [\*Wildlife Conservation and Management Act\*](#) reads as follows:
  - (6) A person who is dissatisfied with the award of compensation by either the County Wildlife Conservation and Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court.
7. It is the 1<sup>st</sup> Respondent's submission that the letter from the 2nd Respondent dated 15th December, 2021 communicating its decision was collected on 11th April, 2022. This submission was supported by an excerpt of a delivery/collection book contained in their bundle of documents. The last entry in the said delivery book shows the Appellant's name and signature, confirming that the Appellant indeed collected the said letter dated 15<sup>th</sup> December, 2021 from the 1<sup>st</sup> Respondent's Kabarnet Station. Interestingly, the Appellant, in his submissions chose not to address this issue.
8. Pursuant to section 25(6), time starts to run as from 11<sup>th</sup> April, 2022 being the date of notification of the decision. The current appeal was filed on 31st May 2022. The period between 11th April, 2022 and 31<sup>st</sup> May 2022 is 50 days. In that regard, the Appeal herein was filed beyond the time stipulated in Section 25(6) of the [\*Wildlife Conservation and Management Act\*](#) with twenty (20) days.
9. Additionally, it is to be noted that the Tribunal is not empowered to extend time within which an appeal under the section 25 of [\*Wildlife Conservation and Management Act\*](#) of 2013 is filed under.
10. Given the foregoing position, we shall not belabour a detailed discussion on the subject of jurisdiction. We will, however, briefly reiterate what the Supreme Court stated in [\*Samuel Kamau Macharia v Kenya Commercial Bank & 2 others\*](#), civil Appl. No. 2 of 2011:

“A court's jurisdiction flows from either the constitution or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by the [\*Constitution\*](#) or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with counsel for the first and second respondents in his submission that the issue as to whether a court of law has jurisdiction to entertain a matter before it, is not one of mere procedural technicality; it goes to the very heart of the matter, for without jurisdiction, the court cannot entertain any proceedings ...”
11. It is therefore our finding that the Tribunal has no jurisdiction and as such, we shall down our tools at this point.

### Orders

12. The Tribunal proceeds to make the following orders: -



- a. The Appellant's Notice of Appeal dated 31<sup>st</sup> May, 2022 is struck out for having been filed after lapse of the thirty-day period set out under Section 25(6) of the [Wildlife Conservation and Management Act](#); and
- b. Each party shall bear its own costs.

**DATED AT NAIROBI THIS 30<sup>TH</sup> DAY OF JANUARY 2023**

**EMMANUEL MUMIA - CHAIRPERSON**

**WINNIE TSUMA - VICE-CHAIRPERSON**

**KARIUKI MUIGUA - MEMBER**

**RONALD ALLAMANO - MEMBER**

**DUNCAN KURIA - MEMBER**

