



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Mose v Karori (Civil Appeal E015 of 2024)  
[2024] KEHC 13879 (KLR) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13879 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CIVIL APPEAL E015 OF 2024  
WA OKWANY, J  
OCTOBER 31, 2024**

**BETWEEN**

**KENNEDY MAKORI MOSE ..... APPELLANT**

**AND**

**ROBERT NYAGETIRIA KARORI ..... RESPONDENT**

*(Being an Appeal from the Judgment in the Senior Principal  
Magistrate's Court at Keroka, MCCC No. E044 of 2022 delivered by  
Hon. C. Ombija, Senior Resident Magistrate on 4th October 2023)*

**RULING**

**Introduction**

1. The Appellant was convicted for the offence of assault causing actual bodily harm vide Keroka Criminal Case No. 561 of 2020. He was, upon conviction, sentenced to serve 12 months' imprisonment. The Respondent herein, who was the complainant in the assault case thereafter instituted civil proceedings against the Appellant in Keroka Principal Magistrate Court Civil Suit No. E044 of 2022 seeking damages arising out of the assault. Default judgment entered against the Appellant in the civil case and his attempts to set aside the default judgment were unsuccessful. The decree arising from the judgment was executed by way of committal of the Appellant to civil jail.
2. Aggrieved by the trial court's judgment and decision to commit him to civil jail, the Appellant filed the instant appeal. I note that the said appeal is yet to be admitted for hearing. The Respondent however filed a preliminary objection to the appeal in which he argues that the appeal was filed out of time without the leave of the court.
3. I however note that the Record of appeal is yet to be filed and this means that the appeal is yet to be admitted for hearing and this court is therefore not able to peruse the said record with an order to confirm the veracity of the timelines and the averments that have been made by the parties. As



matters stand now, it is still possible that the appeal may not be admitted for hearing in which case, a determination on the Preliminary Objection may not arise.

4. It is my finding that the issue of the validity of the appeal is one that can only be discussed after the admission of the said appeal for hearing. I will in the circumstances shelve my findings on the merits of the Preliminary Objection until such a time that the appeal will be admitted for hearing.
5. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS  
31<sup>ST</sup> DAY OF OCTOBER 2024.**

**W. A. OKWANY**

**JUDGE**

