

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

HIGH COURT CIVIL NO.264 OF 2009

NICHOLAS ANWENYI SIRO t/a (RIVERSIDE) CONTINENTAL RESORT.....PLAINTIFF

VERSUS

FINLAY KIRUL.....1ST DEFENDANT

MILLENIA MULTI-PURPOSE CO-OP LTD.....2ND DEFENDANT

RULING

1. Before me is a Notice of Motion dated the 21/2/2020 filed by the defendant/Applicant. The applicant seeks leave to appeal to the Court of Appeal against the Ruling and orders made on the 12/2/2020. In its ground the applicant state that they desire to appeal against the orders made on the 12/2/2021 and that the appeal can only make to the Court of Appeal with the leave of the judge. They indicate that the application was made without delay.

2. The application is supported by the affidavit of Peter Karanja the advocate for the defendant. I have read it. The application was not opposed.

3. Under Rule II (3) of the Advocates Remuneration order, any person aggrieved by the decision of the judge upon any objection referred to such judge under sub paragraph (2) may with the leave of the judge but not otherwise, appeal to the Court of Appeal.

4. The Ruling was delivered on the 12/2/2020. A notice of appeal was filed on the 24/2/2020. The same date the applicants filed this application. The application was made timeously. The Respondent has no objection. At paragraph 2 to 4 the defendant counsel states how his client was aggrieved by this Court Ruling. Indeed, the defendant/applicants have a right of appeal. I therefore exercise my discretion and grant leave to the applicants in terms of Rule II (3) of the Advocates Remuneration order, the same to be filed within 30 days from the date of this Ruling.

Costs of the Notice shall abide in the intended appeal.

Dated, Signed and Delivered at KISII this 26th day of March, 2021.

R. E. OUGO

JUDGE

In the presence of:

Plaintiff Absent

1st & 2nd Defendants Absent

Ms Rael Court Assistant