



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BUSIA**

**CIVIL APPEAL NO. 33 OF 2015**

**BETWEEN**

**1. MWAMATI NZULI**

**2. EASY COACH LIMITED.....APPELLANTS**

**AND**

**JOSEPH OLUOCH ONYANGO** (*Suing as personal*

*representative and the administrator of the estate of*

**RICHARD OSIANGA MARUNGA- deceased).....RESPONDENT**

**RULING**

1. **Joseph Oluoch Onyango**, the applicant herein moved the court by way of Notice of Motion dated 23<sup>rd</sup> August 2019 under Order 51 of the Civil Procedure Rules and Section 74 (4) of the Appellate Jurisdiction Act. The following orders are being sought:

- a) That this court be pleased to enlarge time for the respondent herein to file a Notice of appeal out of time.
- b) That costs of this application be borne by the appellant.

2. The application is premised on the following grounds:

- a) That the respondent was aggrieved by the judgment that was delivered on 12<sup>th</sup> June 2019.
- b) That the delay to file the same within the prescribed time was not intentional.

3. The application was opposed by the respondent on ground that it is an abuse of the court process.

4. I have perused the supporting affidavit of the applicant and I am satisfied that the delay was not intentional. I accordingly allow the application on condition that the said Notice of Appeal is filed within fifteen days of this ruling.

5. Costs will abide with the outcome of the appeal.

**DELIVERED and SIGNED at BUSIA this 12<sup>th</sup> day of March, 2020**

**KIARIE WAWERU KIARIE**

**JUDGE**