



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**MISC. CR. APPL. NO. 33 OF 2018**

**(CORAM: R. E. ABURILI - J.)**

**PETER NJERU NDWIGA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON APPLICATION**

The Applicant, **Peter Njeru** Ndwiga was convicted of the offence of Robbery with Violence vide Siaya PM Cr. Case No. 48/2014. He was sentenced to life imprisonment.

He appealed vide Siaya HCCRA No. 56 of 2016 and on 19<sup>th</sup> April 2018 Hon. T.W. Cherere J dismissed his appeal and conviction affirmed and the sentence upheld.

He now wishes to try his hand on a second appeal. On 3<sup>rd</sup> July 2018 he filed Notice of Appeal and application for waiver of Court fees and leave to have the Notice of Appeal be deemed to be duly filed. He also seeks leave under **Rule 113 of the Court of Appeal Rules** to be exempted from paying fees for preparation of the Record of Appeal.

I have considered the application and grounds set out therein. I am not satisfied that the application is merited.

There is no material to demonstrate that being incarcerated lawfully leads to poverty and more so, no question of law proper for determination by the Court of Appeal has been framed and placed before the Court, this being an intended second appeal which only allows challenge on points of law only.

Accordingly, the application is dismissed for want of merit.

***Dated, Signed and Delivered at SIAYA this 31<sup>ST</sup> day of July 2018.***

**R.E. ABURILI**

**JUDGE**