

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CIVIL MISC. APP. NO. 27 OF 2017

JOSEPH KINYUA.....APPELLANT

VS

G.O.OMBACHIRESPONDENT

RULING

Joseph Kinyua filed application dated 3rd April 2017 seeking leave to appeal out of time.

The application was supported by grounds on the face of the application and affidavit sworn on 3rd April 2017 spelling out efforts made to get ruling of the court delivered on 18th July 2014 in order to file appeal but was not successful.

The application was opposed by Respondent through a Replying Affidavit sworn by Okero Gilbert Ombachi on 8th May 2017. In a rejoinder the applicant filed a further supporting affidavit sworn on 27th June 2017 in which he did annex proof of efforts made to exercise right of appeal but was not able to do it within time for reasons beyond his control.

I have perused the application and the affidavits for both parties and annextures thereto and find that the right to appeal is a constitutional right and the applicant having made efforts to exercise the right he should not be shut out without considering the substance of his appeal.

Applicant granted leave to file appeal out of time but not later than 14 days from date of ruling.

HON. A.ONG'INJO

JUDGE

31.8.2017

Before Adwera – Ong'injo Judge

C/A – Penina

Ms Wangwe Advocate holding brief for Ondari Advocate for Respondent

Applicant – Present in Person

Ruling Signed Delivered and Dated this 31st Day of August 2017.

HON A.ONG'INJO

JUDGE