



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ELC. CASE NO. 425 OF 2009

**WAMBUA MWANGANGI..... PLAINTIFF**

**VERSUS**

**SAMUEL KAMUNYE GICHIGI.....DEFENDANT**

**RULING**

I have read the Notice of Motion dated 17/7/13 which seeks for leave to be granted to the Applicant to file a Notice of Appeal out of time. I have also read the Affidavit of Wambua Mwangangi dated 17/7/13 in which he explains the reason why the Notice of Appeal was not filed on time.

Indeed, the Judgment herein was delivered on 14<sup>th</sup> June 2013 in the absence of all parties. The Plaintiff has disclosed that he had travelled and his advocate was taking exams on that day hence his non-attendance in court. The Plaintiff discloses that he only came to learn about the Judgment on 5<sup>th</sup> July 2013 by which time the time period within which a Notice of Appeal is required to be filed had lapsed.

I can see that there was no inordinate delay in filing this application.

I am convinced that the reasons given for non-attendance are reasonable.

I therefore allow the application.

**SIGNED AND DELIVERED AT NAIROBI**

**ON THE 2<sup>ND</sup> DAY OF AUGUST 2013.**

**MARY M. GITUMBI**

**JUDGE**