

REPUBLIC OF KENYA

IN THE HIGH COURT

AT EMBU

MISCELLANEOUS CIVIL APPLICATION 185 OF 2011

GEOFFREY NGATU

GITHETHUKI.....PLAINTIFF

VERSUS

ALEX MURIITHI

KANGANGI.....RESPONDENT

R U L I N G

This is the Applicant's application (Notice of Motion) dated 18/10/2011 brought under section 79G Civil Procedure Act, Order 50 rule 6 and Order 51 rule 1 Civil Procedure rules for enlargement of time for filing an appeal against the Ruling of the Senior Resident Magistrate Wanguru dated 25/1/2011.

Without even going into the merits of this application I find no evidence of leave to file appeal having been sought before the trial Court. The order being appealed from is not one of those covered under Order 43 Civil Procedure Rules.

The Applicant is advised to go to the lower Court for leave as provided for under Order 43 rule (3) Civil Procedure Rules before refiling his application

Application is therefore incompetent and is struck out with costs.

DATED, SIGNED AND DELIVERED AT EMBU THIS 5TH DAY OF JUNE 2012.

**H.I. ONG'UDI
JUDGE**

In the presence of;

Mr. Nyaga for P.N. Mugo for Applicant

Mr. Kahiga for Respondent

Njue – C/c