

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA**

Civil Miscellaneous Application 48 of 2009

PALA TSUMAAPPLICANT

VERSUS

JUMA MWINYIRESPONDENT

RULING

By this Notice of Motion dated 28th January 2009 the Applicant seeks leave to file and serve notice of appeal against the judgement and orders of the Provincial Land Appeal Committee in Appeal Case No. 253/2003 out of time. Mr. Lumatete for the Applicant opted to rely on his affidavit in support and did not submit. The court notes that no grounds of opposition have been filed by Mr. Gunga for the Respondent. As such the present application is unopposed. I am convinced of the merit of this Notice of Motion and I hereby allow the same in terms of prayers (1) and (2) thereof. Costs to be met by the Applicant.

Dated and delivered at Mombasa this 6th day of August 2009.

M. ODERO

JUDGE

Read in open court in the presence of:

Mr. Sibinu holding brief for Respondent

Ms. Ngugi holding brief for Applicant

M. ODERO

JUDGE

6.8.2009