



**Ndiritu v Rukwaro (Sued as the guardian ad litem and next of kin of Ann Wanjiku Rukwaro) (Environment and Land Miscellaneous Application E005 of 2024) [2024] KEELC 6488 (KLR) (3 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6488 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU**  
**ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E005 OF 2024**  
**AK BOR, J**  
**OCTOBER 3, 2024**

**BETWEEN**

**MARY WANGECHI NDIRITU ..... APPLICANT**

**AND**

**EPHANTUS GICHUKI RUKWARO (SUED AS THE GUARDIAN AD LITEM AND NEXT OF KIN OF ANN WANJIKU RUKWARO) ..... RESPONDENT**

**RULING**

1. The Applicant filed the application dated 26/06/2024 seeking leave to file her appeal out of time on the grounds that she was the Plaintiff in Nyahururu CM ELC No. 315 of 2018 in which judgment was delivered on 13/02/2024. She applied for the copy of the judgment which was supplied on 25/03/2024. The application was supported by her affidavit sworn on 26/06/2024. She deponed that she fell seriously ill and was admitted to hospital after the judgment was delivered due to shock and disbelief. She annexed a copy of a medical report dated 25/06/2024. She explained that it took the intervention of her children to make her understand the outcome of the case and that she needed to file an appeal. She urged that the appeal had high chances of success which she sought to have a chance to litigate before this court. The other ground on which the application was made was that the Applicant is elderly and sickly.
2. The court directed the Applicant's advocate to serve the application on the Respondent. There is an affidavit of service in the file. The Respondent did not file any response.
3. What this court is to determine is whether the Applicant has made a case for leave to be allowed to file her appeal out of time. The main reason advanced for the failure to lodge the appeal within the prescribed time is that the Applicant, who is elderly and sick fell ill and was admitted in hospital after the delivery of the judgment due to shock and disbelief.



4. The court is persuaded that it ought to exercise its discretion in favour of the Applicant and give her a chance to pursue her appeal over the suit land.
5. Leave is granted to the Applicant to lodge her appeal against the decision made in Nyahururu CM ELC No. 315 of 2018 within the next 14 days.

**DELIVERED VIRTUALLY AT NYAHURURU THIS 3<sup>RD</sup> DAY OF OCTOBER 2024.**

**K. BOR**

**JUDGE**

In the presence of: -

Mr. Gakenia Gicheru for the Applicant

Court Assistant- Vanessa Muiruri

No appearance for the Respondent

