



REPUBLIC OF KENYA



**Kanja v Njoroge & 2 others (Civil Appeal E204 of 2022)  
[2025] KEHC 11436 (KLR) (11 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 11436 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E204 OF 2022  
DO CHEPKWONY, J  
APRIL 11, 2025**

**BETWEEN**

**GEOFFREY NJIRU KANJA ..... APPELLANT**

**AND**

**PETER MACHARIA NJOROGE ..... 1<sup>ST</sup> RESPONDENT**

**KAHIKO JOHN ..... 2<sup>ND</sup> RESPONDENT**

**JACOB KARIUKI MURAGU ..... 3<sup>RD</sup> RESPONDENT**

*(Being an Appeal of the whole Judgment of the Honourable L. K.  
Nyabando dated 16th August, 2022 in Kikuyu Civil Suit No.299 of 2013)*

**RULING**

1. On the 16<sup>th</sup> September, 2024, this Court issued a Notice to Show Cause upon the parties herein on why the Appeal should not be dismissed for want of prosecution which was scheduled for mention on 7<sup>th</sup> November, 2024.
2. In response, the Appellant filed an Affidavit on 6<sup>th</sup> November, 2024, wherein he explains that on 14<sup>th</sup> June, 2023, he was attending a relative's funeral at North Kinangop when he accidentally fell down and fractured his left leg. That he was taken to North Kinangop Catholic Hospital for first aid, then to PCEA Kikuyu Hospital and was subsequently admitted at St. Peter Orthopedic Center. It is Appellant's further explanation holds that his leg deteriorated which led to it rotting and he had to undergo several surgeries and many clinical follow-ups and treatment. He contends that he cannot walk on his own and has to be assisted by relatives or with support of a clutch.
3. The Appellant has gone on to state that throughout this period, he was communicating with his previous lawyers, being the Firm of Ms. Mugambi Njau & Co. Advocates on phone and text messages and would be assured that he would be alerted when the matter is scheduled. However, the said



advocate stopped answering his calls and or responding to his text messages. And upon being served with the Notice to Show Cause, the Appellant was forced to instruct his current advocates who informed him that his previous advocates had withdrawn from acting for him on the basis of lack of instructions.

4. According to the Appellant, he was not aware of that position but he is ready and willing to prosecute the Appeal and was under the impression that his previous advocates would be done. The Appellant holds that his new advocates have already obtained the proceedings for purposes of compiling a Record of Appeal. He contends that the delay is regrettable but believes that the appeal has high chance of success as he had already sold the subject motor vehicle at the time of accident save that the transfer had not been effected. The Appellant holds that in the trial court in the case of Kikuyu Civil Case No.187 of 2013 neither himself nor the advocates entered into any consent binding himself to 100% liability and thus urges the court to dispense with the Notice to Show Cause and set the same aside so that he can proceed with the Appeal.
5. Having read through the Affidavit sworn by the Appellant and the court record, this Court finds that the response filed by the Appellant is prudent and substantively backed by medical documents to confirm the ailment of his leg. In light of that, this Court finds that it is in the interest of justice to set aside the Notice to Show Cause issued herein and hence proceeds to order that:-
  - a. The Notice to Show Cause issued on 16<sup>th</sup> September, 2024 be and is hereby set aside forthwith.
  - b. The Appellant be and is hereby granted leave to file and serve a Record of Appeal within sixty (60) days from the date of this ruling.
  - c. Mention on 16<sup>th</sup> July, 2025 before the deputy Registrar for parties to confirm compliance and take directions on hearing of the Appeal.
  - d. Direction and Notice to issue upon the parties and or their respective counsel.
6. It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 11<sup>TH</sup> DAY OF APRIL, 2025.**

**D. O. CHEPKWONY**

**JUDGE**

In the presence of:

No appearance for and by either parties

Court Assistant - Martin

