



**Wathuta v Wambui & another (Miscellaneous Civil Application  
E071 of 2023) [2024] KEHC 6814 (KLR) (10 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6814 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
MISCELLANEOUS CIVIL APPLICATION E071 OF 2023**

**DKN MAGARE, J**

**JUNE 10, 2024**

**BETWEEN**

**BENSON MAINA WATHUTA ..... APPLICANT**

**AND**

**ROSEMARY WAMBUI MUGUONGO ALIAS ROSEMARY WAMBUI  
WAMATHAI ..... 1<sup>ST</sup> RESPONDENT**

**ERICK GITAHU NJERI ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. This is a ruling in respect of leave to come on record and leave to file an appeal out of time.
2. Judgment was delivered on 28/9/2023. The application for extension was filed on 20/12/2023. The Appeal ought to have been filed by 28/10/2023. There is no explanation given for the delay. However long or short the delay, an explanation must be given.
3. The court considers the inherent merit of the intended appeal. No material has been placed in court in regard to the appeal on liability. The material placed before the court regarding quantum do not raise any triable issue.
4. The delay having not been explained the court has no option other than to dismiss the application dated 20/12/2023. Since the same does not appear as opposed, each party shall bear their own costs. The file is closed.

**Determination**

5. The upshot of the foregoing is that I make the following orders:
  - a. The application dated 20/12/2023 lacks merit and is accordingly dismissed with no order as to costs.



b. The file is closed.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 10<sup>TH</sup> DAY OF JUNE, 2024.**

**KIZITO MAGARE**

**JUDGE**

In the presence of:-

Ms. Karanja for Ms. Thungu for the Applicant

No appearance for the Respondents

Court Assistant – Jedidah

