



REPUBLIC OF KENYA



**In re Estate of Owino Ondiegi (Deceased) (Succession Appeal  
E005 of 2024) [2024] KEHC 10632 (KLR) (11 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10632 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION APPEAL E005 OF 2024  
RE ABURILI, J  
SEPTEMBER 11, 2024**

**IN THE MATTER OF THE ESTATE OF OWINO ONDIEGI – DECEASED**

**BETWEEN**

**JOHN WANDAYE OYACH ..... APPELLANT**

**AND**

**ROSE OWINO ..... RESPONDENT**

*((Being an appeal from Ruling/Orders of the Senior Principal  
Magistrate’s Court Citation Cause No. 211 of 2019 delivered at Nyando))*

**RULING**

1. This appeal is before me for admission. I have perused the Memorandum of Appeal dated 12<sup>th</sup> August 2024 and filed in court on 14<sup>th</sup> August 2024.
2. The said Memorandum of Appeal claims that the Ruling appealed against is the one delivered on 1<sup>st</sup> January 2021 in Nyando SPM Succession Cause no. 211 of 2019 by Hon. L. N. Kiniale, SPM.
3. I have perused the trial court file which is Citation Cause no. 211 of 2019. Hon. L.N. Kiniale delivered a Ruling after hearing an application for review of the Ruling of 1<sup>st</sup> April 2021 rendered by Hon. S. Temu, SPM. She did not deliver any Ruling on 1<sup>st</sup> April 2021.
4. Even if she did, there being the application dated 20<sup>th</sup> October 2022 seeking to set aside/review that Ruling of 1/4/2021 means that the Appellant herein could only appeal against the Ruling declining review and not the original Ruling since time for filing of the appeal against the Ruling of 1<sup>st</sup> April 2021 had lapsed.



5. Furthermore, the Ruling declining the prayers for review of the Ruling of 1<sup>st</sup> April 2024 was rendered on 20<sup>th</sup> June 2021 whereas this appeal was filed on 14<sup>th</sup> August 2024. I have not seen any application or order for extension of time for filing of the appeal as 30 days had lapsed when the appeal was filed
6. Whichever way, the purported appeal is incompetently filed before this court and is hereby summarily rejected and struck out with no orders as to costs.
7. The Appellant and Respondent to be notified forthwith.
8. The original lower court file and copy of this Ruling to be remitted to the trial court.
9. This file is closed.
10. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 11<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**R. E. ABURILI**

**JUDGE**

