



REPUBLIC OF KENYA



**KENYA LAW**  
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**Salaad v Motrex Limited (Civil Appeal 47 of 2018)  
[2023] KEHC 2349 (KLR) (1 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2349 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
CIVIL APPEAL 47 OF 2018  
REA OUGO, J  
MARCH 1, 2023**

**BETWEEN**

**OSMAN HAJI SALAAD ..... APPLICANT**

**AND**

**MOTREX LIMITED ..... RESPONDENT**

**RULING**

**RULING ON APPLICATION**

1. I have considered the notice of motion dated December 20, 2022. It is correct that this court gave a conditional order on the 13.0.2022. The applicant was given 30 days to file the record of appeal. The applicant states that he didn't comply because the records from the lower court weren't ready.
2. The application was opposed. I have considered the affidavits on record and the written submissions. In my view the applicant has explained the issues he had in obtaining the proceedings. His reasons are persuasive. The appellant is desirous of pursuing his appeal. He has had the misfortune of not obtaining the proceedings to file his record of appeal. He filed the instant application the moment he was informed that the court order of December 13, 2022 had taken effect. No prejudice will be caused to the respondent as it can be compensated by way of costs. I will therefore exercise my discretion in favour of the applicant.
3. I set aside the order dismissing the appeal. The appeal is reinstated. The applicant's time to file their record of appeal is extended by a further 45 days. The matter will be mentioned after the 45 days to confirm compliance and for directions on the hearing of appeal.

**DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 1ST DAY OF MARCH, 2023.**

**R.E. OUGO**



**JUDGE**

**In the presence of:**

Miss Chepkurui holding brief Mr. Ngigi for the Respondent

Respondent Absent

**Wilkister C/A**

