



**Wamedi v Mwalughongo (Miscellaneous Civil Application  
E008 of 2024) [2024] KEHC 15806 (KLR) (13 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15806 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
MISCELLANEOUS CIVIL APPLICATION E008 OF 2024  
AN ONGERI, J  
DECEMBER 13, 2024**

**BETWEEN**

**BOLSON MWASINGO WAMEDI ..... PROPOSED APPELLANT**

**AND**

**ONESMUS MWALUGHONGO ..... PROPOSED RESPONDENT**

**RULING**

1. The application coming for consideration is the one dated 17<sup>th</sup> May 2024 brought under Section 1A, 1B, 3A, 75 and 95 of the [Civil Procedure Act](#), Cap 21 Laws of Kenya, Order 50 Rule 6 of the [Civil Procedure Rules 2010](#) seeking leave to appeal out of time.
2. The application is opposed by the Respondents Replying Affidavit sworn on 23<sup>rd</sup> June 2024.
3. The parties filed written submissions which I have duly considered.
4. The sole issue for determination is whether the Applicant should be granted leave to appeal out of time.
5. The legal provision for leave to appeal out of time is Section 79G of the [Civil Procedure Act](#) which states as follows:-

“Every appeal from a subordinate court to the High Court shall be filed within a period of 30 days from the date of the decree or order appealed against excluding from such period anytime which the lower court may certify as having been requisite for preparation and delivery to the appellant of a copy of the decree or order:

Provided that an appeal may be admitted out of time if the appellant satisfies the court that he had good and sufficient cause for not filing the appeal.”

6. I find that the court has a discretion to grant leave to appeal out of time.



7. I find the reasons given by the Applicant for delay plausible.
8. I allow the application dated 17<sup>th</sup> May 2024 on condition that the appeal is filed within 30 days of this date.

**DATED, SIGNED AND DELIVERED THIS 13<sup>TH</sup> DAY OF DECEMBER 2024 IN OPEN COURT AT VOI.**

**ASENATH ONGERI**

**JUDGE**

In the presence of:-

Court Assistant: Trizah

