



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT MALINDI**

**CIVIL APPEAL CASE NO. 24 OF 2007**

*(From the Original judgment in Civil case No. 314 of 2006 of the principal Magistrate's Court at Kilifi before Hon. C. O. Obulutsa – SRM)*

**PETER ASIKE LUYANJE ..... APPELLANT**

**VERSUS**

**HUSSEIN DAIRY LIMITED..... RESPONDENT**

**RULING**

There is no dispute that the Memorandum of Appeal was filed outside the stipulated period without leave of the court. The law is clearly in favour of the Respondent applicant and the appellant cannot be heard to appeal to principles of equity in the circumstances of this case. The Notice of Motion filed on 13<sup>th</sup> August, 2013 is allowed with costs.

Delivered and signed at Malindi this 6<sup>th</sup> day of **June, 2014** in the presence of: Mr. Mwadilo holding brief for Ms. Abuodha for the Appellant, court clerk - Samwel.

**C. W. Meoli**

**JUDGE**