



**VMO v NGN (Children's Appeal Case E028 of 2025)
[2025] KEHC 17180 (KLR) (Family) (18 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17180 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
CHILDREN'S APPEAL CASE E028 OF 2025
CJ KENDAGOR, J
NOVEMBER 18, 2025**

BETWEEN

VMO APPELLANT

AND

NGN RESPONDENT

RULING

1. The Appellant filed this appeal arising from part of the judgment of Hon. Jackie Kibosia, Principal Magistrate, in Children's Case Number MCCHCC/E1402 of 2024 at Milimani Children's Court at Nairobi, delivered on 4th February, 2025.
2. The Respondent filed a Preliminary Objection dated 22nd July, 2025. The grounds are as follows;
 - a. That the judgment was delivered on 4th February, 2025;
 - b. That the Appellant filed the appeal out of time and without the leave of this honourable court;
 - c. That the appeal as against the Respondent cannot succeed, is bad in law and ought to be dismissed with costs.
3. The Appellant filed Grounds of Opposition in reply to the Preliminary Objection, asserting that the appeal was lodged within the statutory period.
4. The issue to determine is whether the appeal was filed within the statutory period.
5. That judgment in the lower Court was delivered on 4th February, 2025 and the Memorandum of Appeal was duly filed on 21st February, 2025, well within the statutory period of thirty (30) days as provided under Section 79G of the *Civil Procedure Act*, Cap 21 Laws of Kenya.



6. Section 99 of the *Children Act* expressly preserves the right of appeal in the following terms;
“Unless otherwise provided under this Act, in any civil or criminal proceedings in a Children’s Court, an appeal shall lie –
 - a. In the first instance, to the High Court on points of fact and law; and
 - b. In the second instance, to the Court of Appeal on points of law only.
7. Section 79G of the *Civil Procedure Act*, Cap. 21 stipulates that every appeal from a subordinate court to the High Court must be lodged within thirty (30) days.
8. The judgment in the lower Court was delivered on 4th February, 2025. The Appellant filed the Memorandum of Appeal on 21st February, 2025 a period of seventeen (17) days. This is within the thirty (30) days prescribed under Section 79G of the *Civil Procedure Act*, Cap. 21.
9. It follows, therefore, that the appeal was filed within time and no leave of the Court was required.
10. The Preliminary Objection is not merited and is hereby dismissed, with costs in the cause.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 18TH DAY OF NOVEMBER, 2025.

.....
C. KENDAGOR

JUDGE

In the presence of:

Court Assistant - Beryl

Ms. Kwegu, Advocate for the Appellant

No attendance for the Respondent

