

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MIGORI
HCCCMISC NO. E051 OF 2025

JOEL ACHIENGA OJUOK

.....**APPELLANT**

VERSUS

JOEL KIPKEMOI ROTICH

RESPONDENT

RULING

1. Vide application dated 11th August 2025 the Applicant herein sought that this court issues stay orders in Migori SCCCComm NO E018 OF 2025 pending hearing and determination of the application herein and intended appeal.
2. The Applicant also sought that leave be granted for him to appeal out of time against the judgment delivered on 20th May 2025 in Migori SCCCComm NO E018 OF 2025.
3. The application was premised on the grounds on its face and affidavit of the Applicant sworn on even date in which it was argued that he filed an application for review of the judgment and that by the time the application was heard and determined the period for appeal had lapsed and that due to financial constraints and ill health he was unable to subsequently and thus the reason for the delay.
4. The applicant averred that his intended appeal has serious triable issues on point of law with overwhelming chances of success and that leave should be granted to meet ends of justice.
5. The Applicant also argued that no prejudice will be suffered by the Respondent if leave to appeal out of time is granted as the application is brought in good faith and without inordinate delay.
6. The Respondent opposed the application vide Replying Affidavit sworn on 15th September 2025

7. The application herein was canvassed by way of written submissions. This court has considered the application and the grounds upon which it is premised as well as the rival submissions and finds that the Applicant has satisfied the court for grant of leave to appeal out of time. The Applicant should file his intended appeal within 14 days from the date of this ruling.
8. The application for stay of execution of the orders in Migori SCCCCOMM NO E018 OF 2025 are however not allowed. The Applicant should make the application for those orders in the appeal as and when filed for consideration by the court.
9. The costs of the application herein to be borne by the Applicant.

It is so ordered.

Signed dated and delivered at Migori this 4th day of December, 2025.

.....
A. ONG'INJO
JUDGE