

**IN THE COURT OF  
APPEAL AT NAIROBI**

**(CORAM: MUSINGA, (P). (IN CHAMBERS))**

**CIVIL APPEAL (APPLICATION) NO. E863 OF 2022**

**BETWEEN**

**DANIEL GISIORA NYAKUNDI.....APPELLANT/APPLICANT**

**AND**

**KENYA AIRWAYS LIMITED.....RESPONDENT**

*(Being an appeal against the Judgment and Decree of the High Court of Kenya at Nairobi (J. N. Mulwa, J.) dated 1<sup>st</sup> December 2022*

*in*

***Civil Appeal No. E061 of 2022)***

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**RULING**

1. The **appellant's** notice of motion dated **19<sup>th</sup> September 2025** seeks leave to amend the memorandum of appeal filed on 26<sup>th</sup> December 2022. The reason for the application is that it has since transpired that some critical grounds of appeal were inadvertently omitted and certain grounds require re-drafting for clarity. The desired amendments will also enable this Court to fully and justly determine

the appeal. The appellant has annexed to his affidavit in support of the application a copy of the draft Amended Memorandum of Appeal.

2. The application is not opposed. I have considered the application. In an application of this nature the guiding principle is that amendments should be allowed if the amendment sought facilitates the determination of the real controversy between parties, if no injustice or prejudice would be occasioned to the other party.
3. I am satisfied that the proposed amendment complies with the aforesaid requirements. Consequently, I hereby grant leave to the appellant to amend his Memorandum of Appeal in terms of the proposed draft as aforesaid. The amended Memorandum of Appeal should be filed and served within **7 days** from the date of delivery of this ruling. The costs of this application shall be in the appeal.

**Dated and delivered at Nairobi this 19<sup>th</sup> day of December, 2025.**

**D. K. MUSINGA, (PRESIDENT)**

.....  
**JUDGE OF APPEAL**

*I certify that this is*

*a true copy of the  
original.*

**Signed**

**DEPUTY REGISTRAR.**