

**IN THE COURT OF  
APPEAL AT  
KISUMU**

**(CORAM: KIMARU, JA (IN  
CHAMBERS) CIVIL APPLICATION NO.  
E124 OF 2025 BETWEEN**

**DISMAS OMORO NYANDURO.....1<sup>ST</sup> APPLICANT**

**JOSHUA OGINGA ORUKO.....2<sup>ND</sup> APPLICANT**

**AND**

**PRISCA OMUOMORE.....RESPONDENT**

(Being an application for extension of time to lodge and serve the Notice of Appeal and record of Appeal out of time from the Judgment of the Environment and Land Court of Kenya at Migori (Mohammed

N. Kullow, J) dated 30<sup>th</sup> June, 2025

**in**

**ELC No. 4 of 2021 (OS))**

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**RULING**

1. The applicants moved this Court by notice of motion under **Rule 4** of the **Court of Appeal Rules** seeking to be granted extension of time to lodge the notice of appeal out of time and thereafter be allowed to file the memorandum and record of appeal out of time. The applicants states that the Judgment of the trial Court was delivered virtually on 30<sup>th</sup> June, 2025. They were not aware of the delivery of the

Judgment. They only became aware of the Judgment on 28<sup>th</sup>  
July, 2025 when they

checked on the Court Tracking System (CTS). The applicants states that they were aggrieved by the said Judgment and wish to appeal against the same to this Court. They filed the present application on 14<sup>th</sup> August, 2025 and crave that they be given a chance to ventilate their appeal before this Court. The application is supported by the annexed affidavit of **Joshua Oginga Oruko**, the 2<sup>nd</sup> applicant.

2. Although the respondent was served, she did not file any replying affidavit in opposition to the application. The application is therefore unopposed. **Rule 4** of the **Court of Appeal Rules** grants this Court unfettered discretion to extend time for any steps circumscribed by the Rules to be done out of time. In the present application, this Court is satisfied by the reasons given by the applicants for the delay in lodging the notice of appeal in time. They were not aware of the date that the Judgment was delivered. Immediately they became aware of the Judgment, they filed the present application. They acted with expedition to put their appeal on the path to hearing.

**3.** The application has merit and is hereby allowed. The

applicants shall file and serve the notice of appeal within  
**fourteen (14)**

**days** of today's date. They shall file and serve the record of appeal within **forty five (45)** days of today's date. There shall be no orders as to costs.

**Dated and delivered at Kisumu this 30<sup>th</sup> day of January, 2026.**

**L. KIMARU**

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

**I certify that this is a true copy of original.**

***Signed***

**DEPUTY REGISTRAR.**

