



**Masinde & 2 others v Nyongesa & another (Civil Application  
E157 of 2024) [2025] KECA 646 (KLR) (4 April 2025) (Ruling)**

Neutral citation: [2025] KECA 646 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CIVIL APPLICATION E157 OF 2024**

**LA ACHODE, JA**

**APRIL 4, 2025**

**BETWEEN**

**RICHARD W MASINDE ..... 1<sup>ST</sup> APPLICANT**

**CHRIS MAKHANU MASINDE ..... 2<sup>ND</sup> APPLICANT**

**CAPTAIN (RTD) CHARLES MASINDE ..... 3<sup>RD</sup> APPLICANT**

**AND**

**GLADYS NASIMIYU NYONGESA ..... 1<sup>ST</sup> RESPONDENT**

**GLADYS NANYAMA MASINDE ..... 2<sup>ND</sup> RESPONDENT**

*(Being an application for leave to file Notice of Appeal and to appeal out of time against the Ruling (Ougo J) delivered on 1st August 2024 in HC Succession Cause No. 59 of 2004)*

**RULING**

1. Richard W. Masinde, Chris Makhanu Masinde and Captain (Rtd) Charles Masinde (the 1<sup>st</sup> to 3<sup>rd</sup> Applicant respectively), filed a Notice of Motion dated 30<sup>th</sup> October 2024 under rule 4 of this Court's Rules. Gladys Nanyama Masinde and Gladys Nasimiyu Nyongesa are the 1<sup>st</sup> and 2<sup>nd</sup> respondents respectively.
2. The applicants sought to be granted leave to file their Notice of Appeal and intended appeal against the ruling of Ougo J delivered on 1<sup>st</sup> August 2024, out of time.



3. The Deputy Registrar of this Court sent the applicants a Hearing Notice vide an email on 4<sup>th</sup> February 2025. The email indicated that their application would be disposed of by way of written submissions. I set out the directions in the email verbatim as follows:

“The Applicant is directed to file and serve the application, written submissions and any other documents within 24 hours if they have not yet done so, limited to Three Pages3. The respondents shall have 3 days to file written submissions if they have not in response and serve all the parties on record online. This application will be heard on Thursday,the 13<sup>th</sup> day of February, 2025 at 9.00 am by a Single Judge.”

4. None of the parties complied with the foregoing directions. In the circumstances, the Notice of Motion dated 30<sup>th</sup> October, 2024 is dismissed under rule 58(1) of the *Court of Appeal Rules, 2022*, for failure to comply with directions by the applicant. There will be no orders as to costs

**DATED AND DELIVERED AT KISUMU THIS 4<sup>TH</sup> DAY OF APRIL, 2025.**

**L. ACHODE**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original Signed  
DEPUTY REGISTRAR

