



**M'Kwiriga v Gatembo & another (Civil Appeal (Application)
E148 of 2024) [2025] KECA 999 (KLR) (27 May 2025) (Ruling)**

Neutral citation: [2025] KECA 999 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) E148 OF 2024
S OLE KANTAI, JW LESSIT & A ALI-ARONI, JJA
MAY 27, 2025**

BETWEEN

PAUL MWIRIGI M'KWIRIGA APPELLANT

AND

BEATRICE KATHAMBI GATEMBO 1ST RESPONDENT

PHYLIS RIGIRI MUTHAMA 2ND RESPONDENT

(9th August, 2024 against the whole decision/ruling of the High Court of Kenya at Meru (R. Nyakundi, J.) delivered on 5th August 2022 in HC. Succession Cause No. 184 of 2004)

RULING

1. The applicants in the motion brought under various provisions of law pray that the appeal be struck out for being filed out of time. At the hearing of the same learned counsel for the applicants submitted that the appeal was filed outside the time stipulated in law and that the suit at the High Court was a succession cause and that the respondent had not sought or obtained leave to file an appeal to this Court.
2. Counsel for the respondent admits that no leave was obtained to file an appeal. He also admits that the record of appeal was filed out of time and that the letter bespeaking proceedings was not copied to counsel for the applicants.
3. In those premises the appeal is incompetent and the same is struck out with costs to the applicants.

DATED AND DELIVERED AT MERU THIS 27TH DAY OF MAY, 2025.

S. OLE KANTAI

JUDGE OF APPEAL

J. LESIIT



JUDGE OF APPEAL ALI-ARONI
JUDGE OF APPEAL

