



**Sang v Letting (Suing as Legal Representative of Josphat Letting - Deceased) & another
(Civil Appeal (Application) E026 of 2024) [2025] KECA 1418 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1418 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPEAL (APPLICATION) E026 OF 2024
PO KIAGE, JA
JULY 31, 2025**

BETWEEN

JOHN KIKIRONG SANG APPELLANT

AND

**ROSE LETTING (SUING AS LEGAL REPRESENTATIVE OF JOSPHAT
LETTING - DECEASED) 1ST RESPONDENT**

NELSON KORIR 2ND RESPONDENT

*((Being a substantive appeal from the Judgment of the Environment & Land Court
at Kapsabet (Mwayale, J.) dated 31st January 2024 in ELC Case No. 14 of 2022))*

RULING

1. There is before me an application dated 8th July 2024 by which the appellant seeks an order that “this Court be pleased to prioritize the hearing and determination of the pending appeal hearing.” In a supporting affidavit sworn by the appellant/applicant John Kipkirong Sang, there is a deposition at paragraph 4 as follows;

“4. That, I now make this affidavit to support my application to have the pending appeal to be heard and determined on a priority basis over other matters even though they were filed earlier on the ground that I am having serious medical challenges that necessitates the hearing to be brought forward. Attached is a copy of the medical report marked J.”

2. There is no indication whether the motion was served on the respondent’s advocates, even though the face of the motion indicates that it was to be served upon M/s Bitok & Sambu Advocates, on record for them.



3. I must confess that I find the application rather puzzling. The provision it invokes, and under which it is expressed as brought, is Rule 5(2)(b) of the *Court of Appeal Rules 2010* – these were of course revoked and replaced by the 2022 Rules with effect from 11th March 2022.
4. Be that as it may, the rule cited is the famous rule donating to this Court jurisdiction to issue interim orders of injunction, stay of execution or stay of proceedings, pending appeal. No such prayer is sought herein.
5. Whereas the Rules do contemplate the bringing of urgent applications, to be so certified and otherwise dealt with in accordance with Rule 49, there is no corresponding rule for the certification of an appeal as urgent so that it can be heard on priority over other pending appeals. The practice adopted by the Court, as far as appeals are concerned is that they are listed for hearing and disposal on a first-in first-out basis. A full bench may, at its discretion and usually in the context of interlocutory applications properly brought under Rule 5(2)(b), order that an appeal be heard on priority basis.
6. The other practice that has emerged is that a party may seek the intervention of the Presiding Judge of a Station or Division of the Court, or of the Hon. President of the Court, for an expedited hearing. The Presiding Judge or the President, as the case may be, considers such a plea, made to him informally by letter and may, at his absolute discretion, direct a priority hearing, depending on the reasons advanced.
7. As the appellant has moved to bring an application under Rule 5(2)(b) that manifestly does not belong there, and there being no showing that what is sought is grantable by a single Judge, I have no option but to disallow the application.
8. It is accordingly dismissed, but with no order as to costs.

DATED AND DELIVERED AT NAKURU THIS 31ST DAY OF JULY, 2025.

P. O. KIAGE

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

