



**Ithenguri Mwireri Women Group (Suing through Esther Wanjiru Muchemi, Philomena Wangu Njoroge & Mary Nyamathira Kiboi) v Kamundia (Civil Application E082 of 2023) [2025] KECA 1246 (KLR) (4 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1246 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CIVIL APPLICATION E082 OF 2023  
S OLE KANTAI, JA  
JULY 4, 2025**

**BETWEEN**

**ITHENGURI MWIRERI WOMEN GROUP ..... APPLICANT  
SUING THROUGH ESTHER WANJIRU MUCHEMI, PHILOMENA WANGU  
NJOROGE & MARY NYAMATHIRA KIBOI)**

**AND**

**VIRGINIA WANJIKU KAMUNDIA ..... RESPONDENT**

*(An application for leave to file supplementary record of appeal against the Judgment and Decree of the High Court at Nyeri (Abigael Mshila, J.) delivered on 9th February, 2017 in HC Civil Appeal No. 105 of 2012)*

**RULING**

1. I am asked in the Motion on notice said to be brought under various provisions of law to grant the applicant leave to file and serve supplementary record of appeal out of time to include a Receipt No. 445093 dated 28<sup>th</sup> March, 2012 and the “Plaintiff’s list of documents in Nyeri CMCC No. 324 of 2003.” In grounds in support of the Motion, and in a supporting affidavit of a lawyer Loise Miriti who says that she is on record for the appellant/applicant but does not say why the applicant could not swear the affidavit it is stated that judgment was delivered on 9<sup>th</sup> February, 2017 in Nyeri HCCA No. 105 of 2012 dismissing the appeal; that the appellant filed an appeal being Nyeri Civil Appeal No. 121 of 2018; that the record of appeal was filed on 25<sup>th</sup> July, 2018; that the said Receipt and list of documents were inadvertently omitted from that record; that they are primary documents and there is a risk of the appeal being struck out in absence of those documents and, finally, that the appeal would not be heard on merit absent those documents.



2. I have seen a Hearing Notice dated 19<sup>th</sup> June, 2025 at 2.20p.m. where parties were notified of the hearing date and required to file written submissions. I have not seen any by either side and I have not seen a replying affidavit from the respondent.
3. I have seen copies of the said documents which are said to have been omitted from record of appeal. They appear to be documents produced at the trial. The applicants say that the appeal will be prejudiced absent those documents. I do not think that the respondent would be prejudiced in any way if documents which are said to be primary documents are allowed into the record.
4. I allow the Motion. Let supplementary record of appeal be lodged within fourteen (14) days. Costs of the Motion will be in the appeal.

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

**S. OLE KANTAI**

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**JUDGE OF APPEAL**

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

*Signed*

**Deputy Registrar**

