



**World Vision Kenya v Musau (Civil Appeal (Application)
E104 of 2024) [2025] KECA 1452 (KLR) (1 August 2025) (Ruling)**

Neutral citation: [2025] KECA 1452 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL (APPLICATION) E104 OF 2024
LK KIMARU, JA
AUGUST 1, 2025**

BETWEEN

WORLD VISION KENYA APPELLANT

AND

CECILIA MUTANU MUSAU RESPONDENT

(Being an appeal from the Judgment of the Employment and Labour Relations Court of Kenya at Kisumu (S. Radido, J) dated 31st January, 2024 in ELRC No. E049 of 2023)

RULING

1. The appellant/applicant herein, seeks to regularize the appeal which was filed and served out of time by filing the present application under Rule 4 of the Court of Appeal Rules. The application has been filed within an already irregularly filed appeal which is unprocedural and a situation not contemplated by the Court of Appeal Rules. Indeed, when the respondent, Cecilia Mutanu Musau was served, she filed an application within the appeal seeking to strike out the appeal for:
 - a. Without the leave of Court, the memorandum and the record of appeal were filed out of the stipulated sixty (60) days upon the lodging of the notice of appeal in violation of Rule 84.
 - b. That the applicant failed to lodge and serve the notice of appeal upon the respondent.
2. This Court did on 4th November, 2024 strike out the Notice of Appeal and the Record of appeal on account that it was materially defective.
3. In light of the above circumstances, it is evident that the appeal upon which the application is predicated is non-existent. An application predicated upon such non-existent appeal is incompetent. What the appellant/applicant ought to do, is to file a separate application that is not anchored on an appeal that has already been struck out by the Court.



4. In the premises therefore, the application lacks merit and is hereby struck out with costs to the respondent.

DATED AND DELIVERED AT KISUMU THIS 1ST DAY OF AUGUST, 2025.

L. KIMARU

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JUDGE OF APPEAL

I certify that this is a true copy of original.

Signed

DEPUTY REGISTRAR.

