



**Rehman v Abdul (Civil Application E026 of 2024)  
[2024] KECA 464 (KLR) (18 April 2024) (Ruling)**

Neutral citation: [2024] KECA 464 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CIVIL APPLICATION E026 OF 2024  
JM MATIVO, JA  
APRIL 18, 2024**

**BETWEEN**

**SAFINA ABDUL REHMAN ..... APPLICANT**

**AND**

**WILLY KIPLANGAT ABDUL ..... RESPONDENT**

*(Being an application for extension of time to file and serve notice of appeal and record of appeal out of time against the ruling of High Court at Kericho (G.B.M Kariuki, J) delivered on 28th March 2012 in Kericho Succession Cause No.78 of 2003)*

**RULING**

1. Vide an application dated 26<sup>th</sup> February 2024 brought under article 159(2) (d) of the *Constitution*, rule 4 of the *Court of Appeal Rules*, 2022, the Applicant prays for leave to file and serve a Notice of Appeal together with a Record of Appeal out of time against the Ruling of Hon. Justice G. B.M Kariuki delivered on 28<sup>th</sup> March 2023 in Kericho Succession Cause No.78 of 2003.
2. The application is supported by grounds on the face of the application and the applicant's supporting affidavit annexed thereto. The application is un-opposed. However, by letter dated 11<sup>th</sup> April 2024 Mr. Godwin Langat an Advocate retained by the Family of the Respondent informed this Court that the Respondent has since passed on and he undertook to furnish this Court with a certified copy of the death certificate as and when it is requested.
3. Rule 53 of the *Court of Appeal Rules*, 2022 provides as follows:  
Abatement of applications
  2. A civil application shall not abate on the death of the applicant or the respondent but the Court shall, on the application of any interested person,



cause the legal representative of the deceased to be made a party in place of the deceased.

3. If no application is made under subrule (2) within twelve months by the applicant or the respondent, the application shall abate.
4. The person claiming to be the legal representative of a deceased party or any interested person to an application may apply for an order to revive the application which has abated under subrule (3) and, if it is proved that he or she was prevented by sufficient cause from continuing with the application, the court shall revive the application upon such terms as to costs or otherwise as it deems fit.
5. An application under this rule may be made before a single judge or the Court on the date of the hearing.

4. In light of the new developments, the instant application is taken out of the cause list to allow the parties herein to comply with the provisions of rule 53 of the *Court of Appeal Rules*, 2022.

**Dated and Delivered at Nakuru on this 18<sup>th</sup> day of April, 2024.**

**J. MATIVO**

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**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

Deputy Registrar

