



REPUBLIC OF KENYA



**KENYA LAW**  
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**Ahawo v Kenya Airport Authority (Civil Application E162 of 2022)  
[2024] KECA 1595 (KLR) (8 November 2024) (Ruling)**

Neutral citation: [2024] KECA 1595 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPLICATION E162 OF 2022  
F SICHALE, JA  
NOVEMBER 8, 2024**

**BETWEEN**

**GRACE AKINYI AHAWO ..... APPLICANT**

**AND**

**KENYA AIRPORT AUTHORITY ..... RESPONDENT**

*(Being an Application for Leave to Appeal as a Pauper in an Intended Appeal against the Judgment and Decree of the Employment and Labour Relations Court at Nyeri (Nzioki wa Makau J), delivered on 21st May 2018 by Radido J in Nairobi ELRC Cause No. 985 of 2014)*

**RULING**

1. By the Motion on Notice dated 6<sup>th</sup> May 2022, brought pursuant to the provisions of Article 159 (2) (9) of the Constitution of Kenya, Rules 4, 39, 42, 43 and 115 of the Court of Appeal Rules Grace Akinyi Ahawo (the applicant herein) has invited this Court sitting as a Single Judge to grant the following orders;
  - “i. Spent.
  - ii. That the court be pleased to grant leave to the applicant to appeal as a pauper.
  - ii. That the court do extend the period within which the appellant ought to file and serve her memorandum of appeal, record of appeal against the judgment and decree of Hon Nzioki wa Makau in the Employment and Labour Relations Court at Nyeri delivered on 21<sup>st</sup> May, 2018 by Hon. Radido Stephen (Judge) in Nairobi ELRC Cause No. 985 of 2014.”
2. The motion is supported on the grounds on the face of the motion and an affidavit sworn by the applicant who deposed that being dissatisfied and aggrieved with the judgment of the Employment and



Labour Relations Court at Nyeri (Nzioki wa Makau J), delivered on 21<sup>st</sup> May 2018, she was desirous of appealing against the same.

3. She further deposed that she was granted the go ahead to file and serve her Memorandum and Record of Appeal which had been prepared and sent to the Court Registry and assessed at Kshs 100,400 and 6000 respectively.
4. That, she was unable to pay the said court fees as she was unemployed and due to the aforesaid inability to pay the assessed fees, she urged Court to grant her leave to file the suit as a pauper. She further urged the Court to extend the period within which she ought to file and serve her Memorandum ad Record of Appeal.
5. There was no response on part of the respondent despite having been served with a copy of the hearing notice on 4<sup>th</sup> September 2024.
6. The applicant in her written submissions dated 31<sup>st</sup> May 2022, basically reiterated the contents of her supporting affidavit to the motion and submitted that she was desirous of appealing against the judgment of Nzioka wa Makau J, delivered on 21<sup>st</sup> May 2018, by Radido J and that she had lodged the Memorandum and Record of Appeal in the registry which had been assessed at Kshs 100,400 and 6000 respectively which she was unable to pay as she was unemployed and did not have a tangible source of income. Consequently, I was urged to allow the motion as prayed.
7. I have carefully considered the motion, the grounds thereof, the supporting affidavit, the applicant's written submissions, the authorities relied upon in support and the law.
8. Rule 115 (1) of the *Court of Appeal Rules* (2010), pursuant to which this application is inter alia premised provide as follows: "If in any appeal from a superior court, in its original or appellate jurisdiction in any civil case the Court is satisfied on the application of an applicant that he lacks the means to pay the required fees or to deposit the security for costs and that the appeal is not without reasonable possibility of success, the Court may by order direct that the appeal may be lodged-
  - a. Without prior payment of fees of court, or on payment of any specified amount less than the required fees;
  - b. Without security for costs being lodged, or on lodging of any specified sums less than the amount fixed by rule 107, and may order that the record of appeal be prepared by the registrar of the superior court without payment therefore or on payment of any specified sum less than the fee set out in the Second Schedule, conditionally on the intended appellant undertaking to pay the fees or the balance of the fees out of any money or property he may recover in or consequence of the appeal."
9. In the instant case I have looked at the supporting affidavit in support of the motion where the applicant deposes that she is unable to pay the court fees as she is unemployed. The report by the Deputy Registrar of this Court dated 19<sup>th</sup> July 2024, confirms as such; that the applicant is unemployed and has no source of income save from financial support from her son and that therefore she lacks sufficient financial resources to pay court filing fees. Additionally, the applicant's motion has not been challenged by the respondent.
10. I also note that the Memorandum and Record of Appeal have been prepared and assessed at Kshs 100,400 and 6000 respectively.



11. From the circumstances therefore, I am satisfied that the applicant has met the threshold to be allowed to file suit as a pauper. Accordingly, the applicant's motion dated 6<sup>th</sup> May 2022 is merited and the same is hereby allowed in the following terms:

1. The applicant is hereby granted leave to file the intended appeal as a pauper.
2. The intended appeal shall be filed in accordance with the Rules of this Court.
3. The Memorandum and Record of Appeal shall be filed and served within a period of 60 days from the date of this ruling, failure to which these orders shall stand vacated.

It is so ordered.

**DATED AND DELIVERED AT NAIROBI THIS 8<sup>TH</sup> DAY OF NOVEMBER 2024.**

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

Signed

**DEPUTY REGISTRAR**

**F. SICHALE**

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**JUDGE OF APPEAL**

