



REPUBLIC OF KENYA



KENYA LAW
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**Murumba v Natili (Civil Application E089 of 2024)
[2024] KECA 1578 (KLR) (8 November 2024) (Ruling)**

Neutral citation: [2024] KECA 1578 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPLICATION E089 OF 2024
HM OKWENGU, JA
NOVEMBER 8, 2024**

BETWEEN

CHARLES KASKON MURUMBA APPLICANT

AND

JOSEPH NATILI RESPONDENT

(Being an Application under Sections 3, 3A and 3B of the Appellate Jurisdiction Act and Rule 4, 41 and 42 of the Court of Appeal Rules, 2010, seeking extension of time within which to file an appeal from the decision of the High Court at Kakamega, (P.J. Otieno, J.) delivered on 26th May, 2023 in HC Succession Cause NO. 213 of 2015)

RULING

1. The applicant, Charles Kaskon Murumba, has moved this Court by way of a notice of motion, seeking to have time enlarged for him to file and serve the notice of appeal, and the appeal from the judgment and orders of the High Court (P.J. Otieno, J), delivered on 26th May, 2023, and that he be at liberty to apply for further orders or directions as the Court may deem fit.
2. The applicant has not given any reason why the appeal was not filed within time, nor has he provided any justification for the exercise of the Court's discretion. The applicant has also not filed any written submissions as directed by the Court through the hearing notice that was forwarded by the Court through email on 26th September, 2024.
3. The respondent's advocate, Michael Muhuyi Kiveu has filed a replying affidavit in which he deposes that the respondent died on 30th June, 2023, and that he has no instructions on how to proceed with the appeal as the respondent has not been substituted and his attempts to have a representative substituted have not been fruitful.



4. Upon considering the motion, and the affidavit sworn by the respondent's advocate not having been opposed, it is apparent that the respondent having died on 30th June, 2023, and no application having been made to substitute the respondent, the notice of motion is deemed to have abated under Rule 53(3) of the Court of Appeal Rules.

DATED AND DELIVERED AT KISUMU THIS 8TH DAY OF NOVEMBER, 2024.

HANNAH OKWENGU

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

