



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: OTIENO ODEK, JA. (IN CHAMBERS))

CIVIL APPLICATION NO. 13 OF 2019

BETWEEN

SAMWEL OTIENO OLOLO APPLICANT

AND

LILY KAVUMBI CHARO RESPONDENT

(Being an application seeking leave of the court to file a fresh appeal out of time, or amendment of memorandum of appeal filed at Siaya High Court, Succession Cause No. 21 of 2018 which was struck out by Hon. R. E. Aburili, J dated 23rd January, 2019

in

P.M'S SIAYA CAUSE NO. 55 OF 2015)

COURT RULING

Before me is a Notice of Motion dated 19th February, 2019. It is an application for extension of time to file and lodge an intended appeal against the decision of Aburili, J. dated 23rd January, 2019.

I note the respondent has no objection to the extension of time. I further observe the impugned Ruling is dated 23rd January, 2019 and the instant application was filed on 19th February, 2019. The delay is for zero days. There is no delay. The application was filed within time, within the 30 day period allowed. The applicant is in person and hence may not have appreciated there is no delay in this matter.

Taking into account that there has been no delay and considering the respondent has no objection to the application, I hereby grant leave and extend time for the applicant to file and serve the Notice of Appeal and Record of Appeal.

The Applicant shall file and serve a fresh Notice of Appeal within 21 days of today's date. The applicant shall further file and serve the Record of Appeal within 60 days of service of the new Notice of Appeal.

Today's costs shall be borne by the applicant. It is so ordered.

Dated at Kisumu this 20th May, 2019.

OTIENO ODEK

.....

JUDGE OF APPEAL

I certify that this is a true

copy of the original

DEPUTY REGISTRAR