



**IN THE COURT OF APPEAL**

**AT KISUMU**

**(CORAM: E. M. GITHINJI, J.A. (IN CHAMBERS))**

**CIVIL APPLICATION NO. 98 OF 2016**

**BETWEEN**

**LEONARDUS ODHIAMBO OKELO.....APPLICANT**

**AND**

**LILIAN ATIENO ODERA .....1<sup>ST</sup> RESPONDENT**

**MAURICE OLPENS OKOTH.....2<sup>ND</sup> RESPONDENT**

*(Being an application for leave of the court for the applicant to file notice of appeal and appeal out of time and stay of execution of costs of the judgment of the High Court of Kenya at Kisumu, (Maina, J.) dated 3<sup>rd</sup> November, 2016*

**in**

**SUCCESSION CAUSE NO. 61 OF 2014)**

\*\*\*\*\*

**RULING**

The applicant **Leonardus Odhiambo Okelo** applies for leave to file notice of appeal out of time. The application is supported by the grounds in the application and by his supporting affidavit.

The 1<sup>st</sup> respondent did not attend the hearing of the application. The 2<sup>nd</sup> respondent discloses that he received the hearing notice on her behalf and informed her of the hearing date. Both the 1<sup>st</sup> and 2<sup>nd</sup> respondents have not filed a replying affidavit.

At the hearing of the application, the 2<sup>nd</sup> respondent intimated that he has no objection to the application. Since the application is not opposed and as I am satisfied that the application has merit, it is allowed.

Accordingly,

- 1. Time for the filing and serving the notice of appeal is extended. The notice of appeal to be filed and served within 14 days from the date hereof.**
- 2. As the applicant is not represented and to save costs, time for filing and serving the record**

of appeal is extended. The record of appeal to be filed and served within 30 days from the date hereof.

**3. Costs of this application be costs in the appeal.**

**Dated and Delivered at Kisumu this 6<sup>th</sup> day of February, 2018.**

**E. M. GITHINJI**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR.**