



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: R. N. NAMBUYE, J.A. (In Chambers))**

**CIVIL APPLICATION NO. NAI 263 OF 2014 (UR 200/2014)**

**BETWEEN**

**ROSE WANGUI KARUGA ..... APPLICANT**

**AND**

**KENYA RAILWAYS CORPORATION ..... RESPONDENT**

*(An application for leave to file appeal as a pauper in the matter of an intended appeal from the Ruling and/or Order of the High Court of Kenya at Nairobi ( Waweru, J.) delivered 18<sup>th</sup> October, 2013*

*in*

**H.C.C.C. NO. 214 OF 1993)**

**\*\*\*\*\***

**RULING**

1. Before me is an application by way of a notice of motion dated the 9<sup>th</sup> day of October 2014 and lodged in this court on the same date of the 9<sup>th</sup> day of October 2014. It is predicated upon Section 1A, B and 3A of the Civil Procedure Act Cap 21 Laws of Kenya, Order 44 Rule 1 and Order 51 of the Civil Procedure Rules 2010, the inherent jurisdiction of the Court and all other enabling provisions of the law.
2. In court, the applicant Rose Wangui Karuga seeks leave of Court to file her memorandum of appeal as a pauper in the matter of an intended appeal against the ruling/order of Honourable H.P.G. Waweru issued on 18<sup>th</sup> October 2013 in HCCC No.214 of 1993. She also requests that the costs of the application do abide the outcome of the intended appeal or be dealt as Justice of the case would seem to require. The application is grounded on the grounds in the body of the application, the content of the supporting affidavit and a further affidavit deposed by her and filed on 3.11.2014. She appeared in court on 16<sup>th</sup> December 2014 and argued the application in person but before making her representation the parties were referred to the registrar of the Court of Appeal to carry out an inquiry in accordance with the Rules. The Registrar filed a status report on the application. The finding is that the applicant is a pauper. Since the inquiry before the Registrar was interpartes Mr. Edwin Odundo holding brief for Chacha Odera left the matter to Court.

3. I have perused all the supporting documents relied upon by the applicant in the light of the content of the status report on the applicant filed herein. I find the applicant has made a genuine request. I find learned counsel for the respondent who had been duly served with the pleadings rightly left the matter to Court. In the result, I find that the applicant has met the threshold for me to grant her the relief sought. I therefore make the following orders in respect thereto-

1. The applicant has leave of court to file her appeal as a pauper
2. The intended appeal to be filed in accordance with the Rules of this court
3. Costs of this application to abide the outcome of the intended appeal.

**Dated and delivered at Nairobi this 19<sup>th</sup> day of December 2014.**

**R. N. NAMBUYE**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**

Page 3 of 3