



REPUBLIC OF KENYA



**Kigwe v Kirori (Civil Appeal E231 of 2023) [2025] KEHC 5066 (KLR) (25 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5066 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT THIKA  
CIVIL APPEAL E231 OF 2023  
FN MUCHEMI, J  
APRIL 25, 2025**

**BETWEEN**

**CHRISTOPHER KANGETHE KIGWE ..... APPLICANT**

**AND**

**ANNE NYAMBURA KIRORI ..... RESPONDENT**

**RULING**

**Brief Facts**

1. The application dated 17<sup>th</sup> August 2023 seeks for orders of leave to file an appeal out of time against the ruling in Thika Chief Magistrate’s Court MCELC Case No. 72 of 2008 delivered on 18<sup>th</sup> October 2022. The applicant further seeks for orders of stay of execution of the said ruling.
2. The respondent said he filed a Replying Affidavit dated 5<sup>th</sup> October 2023. The court checked in the court file and in the e-filing portal but found no replying affidavit.
3. As the court proceeded to prepare the ruling of this application, it was noted that this application originated from a land matter heard and determined in Thika by Hon. Atambo. This is CM MCELC No.72 if 2008 where the impugned ruling was delivered on 18/10/2022, An appeal from a land matter determined by the Magistrate’s Court whereas the mater involved land, ought to be filed in the Thika ELC Court and not in the High Court. The same case applies to an application to file an appeal of time.
4. Consequently, I find that this court has no jurisdiction to deal with this application and with the intended appeal.
5. Bearing in mind that the applicant filed this appeal on 9<sup>th</sup> August 2023 in Kiambu High Court and that the record of appeal has been filed herein as well as the fact that this application is dated 17<sup>th</sup> August 2023 and had been in the court shelves for about two years, I hereby make the following orders: -
  - a. That this file is forwarded to Thika ELC for disposal of this application and the intended appeal in the event that the application for extension of time shall be successful.



- b. Mention before the Presiding Judge Thika ELC Court for further orders on 06/05/2025.
6. It is hereby so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 25<sup>TH</sup> DAY OF APRIL 2025.**

**F. MUCHEMI**

**JUDGE**

