



REPUBLIC OF KENYA



**KENYA LAW**  
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**Matuli v Mulanda (Civil Application E093 of 2023)  
[2023] KECA 1367 (KLR) (17 November 2023) (Ruling)**

Neutral citation: [2023] KECA 1367 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CIVIL APPLICATION E093 OF 2023  
HA OMONDI, JA  
NOVEMBER 17, 2023**

**BETWEEN**

**RICHARD MAPESA MATULI ..... APPLICANT**

**AND**

**ADAM AMBANI MULANDA ..... RESPONDENT**

*(An application for extension of time to file Notice of Appeal out of time, and leave to file appeal out of time from the ruling of the Environment and Land Court at Kakamega, (D. Ohungo, J.) dated 30th November 2021 in ELC. No. 228 of 2017)*

**RULING**

1. The Application dated 1<sup>st</sup> August, 2023 brought pursuant to Rule 4 *Court of Appeal Rules*, 2010 seeks;
  - i. Leave for extension of time to file a notice of appeal; and the intended appeal;
  - ii. that the annexed memorandum of appeal be deemed as properly on record, and be admitted for hearing;
  - iii. there be stay of execution of the ruling delivered on 30<sup>th</sup> November 2021, pending hearing and determination of the application and the intended appeal;
  - iv. costs be in the cause.
2. The application is supported by the affidavit of even date sworn by Richard Mapesa Matuli who deposes that due to ill health, he was not in a position to instruct his counsel to file the appeal in a timely manner, although his advocate has now requested for the decree as well as the certified typed proceedings emanating from the court; and a draft notice of appeal has also been prepared.
3. The matter was listed for hearing on 1<sup>st</sup> November 2023, but the respondent had not filed any response to the application; and none of the parties filed any written submissions. The only rational conclusion



to make is that the applicant has lost interest in the matter which is now deemed as unprosecuted. It is thus dismissed for want of prosecution under rule 58 (1) of the Court of Appeal Rules. I make no orders on costs.

**DATED AND DELIVERED AT KISUMU THIS 17<sup>TH</sup> DAY OF NOVEMBER, 2023.**

**H. A. OMONDI**

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**JUDGE OF APPEAL**

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

*Signed*

**DEPUTY REGISTRAR**

