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**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA HOLDEN AT GULU**  
**MISCELLANEOUS APPLICATION NO. 0133 OF 2022**  
**(ARISING FROM CIVIL APPEAL NO. 015 OF 2022, itself Arising from**  
**Civil Suit No. 51/2018, formerly Civil Suit No. 51/2012)**

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- 1. OKOT PAULINO**
- 2. ODONG BOSCO**
- 3. KINYERA RICHARD**
- 4. ONEK JACOB**
- 5. OJOK DAVID ..... APPLICANTS**

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**VERSUS**

**ABOK YAKOBO ABONG ..... RESPONDENT**

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**BEFORE: HON. MR. JUSTICE GEORGE OKELLO**

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**RULING**

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I have perused the Motion. It seeks to strike out Civil Appeal No. 015/2022. The ground is that the Appeal was lodged outside time. That Appeal is against the decision of Her Worship Susan Anyeko, Magistrate Grade One, given in Civil Suit No. 051/2018. It was delivered on 21/01/2022. The Appeal was lodged in this Court on 15/03/2022. An Appeal against the decision of Magistrate Grade One ought to be lodged in the High Court within 30 days under S.79(1)(a) of the Civil Procedure Act (CPA). The Section provides an exception in reckoning of time under Section S.79(2) where time was taken to prepare and avail record of

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5 proceedings to the Appellant. See: **Otto Marcello & 4 Others Vs. Kinyera  
Patrick; Godfrey Tuwangye Kazzora Vs. Georgina Katarikwenda  
[1992-1993] 145; Ephraim Ongom & Another & Vs. Francis Benega,  
SC Civil Appeal No. 10/1987.** In this case, the record of the trial court is  
not attached to the Motion. What is attached is Judgment shown to have  
10 been certified on 04/02/2022. There is nothing to show when the  
Judgment and record were availed to the Respondent who is the appellant  
in the impunged appeal.

The Applicant as a party contending that the appeal was lodged outside  
15 time bore the burden of proving that indeed the appeal was filed outside  
time. In the absence of a deposition and proof when the record of the  
Proceedings of the trial court and Judgment were availed to the present  
Respondent, I am hesitant to find that the appeal was lodged outside time.  
In the circumstances, the Application has not been proved and stands  
20 dismissed. I make no order as to costs, since the Respondent did not  
participate in this proceedings. I so order.

Delivered and dated at Gulu this 09<sup>th</sup> day of April, 2024.

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**George Okello**  
**JUDGE**

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5 Ruling delivered in open Court

09<sup>th</sup> April, 2024

in the presence of:

Okot Douglas Odyek holding brief for Mr. Brian Watmon for the Applicants.

10 Mr. Stephen Ochan, Court Clerk.

*George Okello*

**George Okello**

**JUDGE**

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