



REPUBLIC OF KENYA



KENYA LAW
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**Kitale Victory Garage v Matuku (Miscellaneous Civil Application
51 of 2022) [2022] KEHC 10642 (KLR) (30 May 2022) (Ruling)**

Neutral citation: [2022] KEHC 10642 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CIVIL APPLICATION 51 OF 2022**

PJO OTIENO, J

MAY 30, 2022

BETWEEN

KITALE VICTORY GARAGE APPLICANT

AND

AMOS MATUKU RESPONDENT

RULING

1. The Judgment sought to be appealed against was delivered on 3rd March 2022. Four days later, on 7th March 2022, the fact of delivery was communicated to the insurer and instructions sought whether or not to appeal.
2. It took the insurer upto 13th April 2022 to give instructions including the need to seek leave to appeal out of time.
3. For Court to exercise its discretion in extending time, there must be an explanation for the delay and the delay must not be inordinate. Here the delay is not inordinate but I do find that there is no plausible explanation why the appeal was not filed in time.
4. There is no attempt to say why instructions were not issued within time. When a party choses an inefficient way to conduct its affairs, he cannot use the same choice to be the excuse not to act within the laws imposing statutory timelines.
5. For this reason, I find no merit in the application and the same is dismissed with costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT, THIS 30TH DAY OF MAY 2022.

PATRICK J. O. OTIENO

JUDGE

In the presence of:



Mr. Abok for the Respondent

No appearance for Kimondo Gachoka for the Applicant

Court Assistant: Kulubi

