

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

MISCELLANEOUS CIVIL APPLICATION NO. 33 OF 2020

JAMILIA OPANDA MUSA.....APPLICANT

VERSUS

CHRISTINE KHALULU.....RESPONDENT

RULING

1. The application for determination is the Motion, dated 20th July 2020. It is brought at the instance of the advocate for the applicant. The Motion seeks, in the main, leave to file appeal out of time and enlargement of time to file appeal.

2. The reasons given by the applicant for the delay in filing appeal are averred in the affidavit sworn in support of the Motion. The advocate avers that the applicant was a layperson, who did not understand the strict timelines that apply with respect to appeals from decisions of the lower court. It is also averred that the delay was compounded by the onset of the corona virus pandemic. It is averred further that the applicant was not able to get copies of the typed proceedings and judgment on time, as court services had been slowed down by the corona virus pandemic. It is stated that the delay should not be taken to mean that the applicant be denied her right to appeal.

3. When the application was placed before me on 21st July 2020, I directed that the same be served. On 27th July 2020, Ms. Mburu appeared before me and informed me that she had served the Motion. Mr. Khayumbi was present for the respondent. He asked for more time to file a reply. On 29th September 2020 the parties told me that they had agreed to dispose of the application by way of written submissions.

4. I have closely perused the record before me. I have not seen a reply from the respondent. I have seen written submissions from the applicant, but none from the respondent. I shall take it that the Motion is unopposed.

5. In view of the above, and in the interests of justice, I shall allow the Motion dated 20th July 2020 as prayed. It is so ordered.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 22ND DAY OF JANUARY 2021

W MUSYOKA

JUDGE