

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISCELLANEOUS APPLICATION NUMBER 69 OF 2020

SIDIAN BANK LIMITED.....APPLICANT

VERSUS

REGISTRAR OF COMPANIES.....RESPONDENT

RULING

What is before me is the exparte Notice of Motion dated 8th June 2020 which was placed before me on 16th June 2020. It is accompanied by the Certificate of Urgency bearing same date of Felix Ochieng Orege Advocate, and the Supporting Affidavit sworn by the same Advocate on the same date.

The Notice of Motion is premised on **Section 888 of the Companies Act, 2015, Section 3A of the Civil Procedure Act and all the enabling provisions of the law.**

Counsel also relied on **Misc. Civil Cause number 143/2017 Faulu Micro Finance Limited [2017] eKLR.**

The application seeks the order that, the court be pleased to;

Enlarge time for registration of third party legal charges over Gilgil/Gilgil Block 1/2697 (Kekohey) dated 27th December, 2019 and registered on 13th March 2020 registered in the name of Bertrand Lubanga Ngaywa (the chargor) at the Companies Registry in favour of Sidian Bank Limited which charges had been registered at the Lands Registry only released on 7th February 2020 and 26th May 2020 respectively but their registration at the companies registry has to be processed at the same time.

In arguing the application Mr. Orege submitted that the delay to register the charges was not deliberate but was as a result of the closure of the Land Registries due to the COVID 19 pandemic. He urged the court to allow the application, enlarge time for the applicant, to ward off litigation that may come out of the delay.

Under **Section 888 of the Companies Act**, the applicant is required to satisfy the court that the delay (being a failure/omission/misstatement) was accidental due to inadvertence or some other reasonable cause, among other grounds.

In this case the applicant has given a reasonable explanation, as the closure of the Land Registries made it impossible to transact. I find that the explanation given is reasonable.

I allow the application and extend time as requested. The charges be registered within thirty (30) days hereof. No orders as to costs.

Dated this 18th June 2020 to be transmitted by email to the applicant by the Deputy Registrar.

Mumbua T Matheka

Judge

18th June 2020