

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITALE

MISCELLANEOUS CIVIL APPLICATIONS NOS. 18 & 19 OF 2020 (CONSOLIDATED)

UNITED MILLERS LIMITED.....1ST APPLICANT

DENNIS CHERUIYOT BETT.....2ND APPLICANT

VERSES

SILALI JOSEPH JUMA.....1ST RESPONDENT

RICHARD BARASA WAMBACHA.....2NDRESPONDENT

RULING

1. The Applicants through their unopposed application dated 30th July 2020 are seeking that they be granted leave of this court to file an appeal out of time in respect to the judgement of the lower court in case number **Kitale CMCC 23 of 2018**. In that case the applicants were the defendants and the Respondent the Plaintiffs.
2. The affidavit in support of the application by one **FRANKLINE NYAGA** states that they were not notified of the date when the trial court delivered its judgement on the 23rd April 2020. He deponed that during that time their offices had been affected by the Covid 19 Pandemic and could not therefore give instructions to their lawyers on record. That it was only later that they learned of the court's decision which according to him was without the usual notice.
3. The Respondent has not opposed the application either by way of grounds of opposition or a replying affidavit.
4. This court finds the grounds raised by the applicants plausible. The application is therefore allowed. The Applicants are hereby granted 14 days from the date herein to file their appeal.
5. Meanwhile there be stay of any execution against the Applicants pending the determination of the said appeal. In default of filing the appeal as directed above the Respondents be at liberty to execute against the Applicants.
6. Orders accordingly.

Dated, Signed and Delivered at Kitale this 27th day of October 2020.

H. K. CHEMITEI

JUDGE

27/10/2020