



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

JUDICIAL REVIEW APPLICATION NO. 2 OF 2013

REPUBLIC.....APPLICANT

VERSUS

LAND ADJUDICATION OFFICE, ANKAMIA ADJUDICATION

SECTION & ANOTHER..... RESPONDENTS

AND

PATRICK GITUMA M'MUGWIKI INTERESTED PARTY

SOLOMON MATHIU NABEAEXPARTE APPLICANT

RULING

1. Vide the notice of motion filed on 25.9.2018, the interested party is seeking leave to file an appeal out of time.
2. Judgment herein was delivered on 28.6.2018 in the presence of Mr. Muchiri counsel holding brief for Carl Peters Mbaabu, counsel for the exparte applicant and Ms. Wambugu holding brief for B.G Kariuki counsel for the interested party.
3. The interested party avers that he was dissatisfied with the judgment and he intends to lodge an appeal.
4. However the period for filing the appeal has lapsed. He avers that the delay in lodging the appeal was purely inadvertent and is excusable as his advocate failed to inform him of the judgment in good time.
5. The exparte applicant avers that the interested party was present in court on the date of delivery of the judgment. He even states the kind and colour of attires the interested party wore on this date. He also states that litigation ought to come to an end and that he should not be made to incur more costs in this litigation.
6. I find that both section 7 of the appellate jurisdiction Act and order 50 rule 6 of the Civil Procedure Rules do provide for the granting of the prayers sought herein. This is not a case where the applicant has sought for a stay of the judgment.
7. Further, I note that three months had lapsed from the time the judgment was delivered to when the application was filed. That delay is not prolonged.
8. It would be unfair to deny a litigant an opportunity to ventilate his case through the hierarchical systems of the court when he is not even asking for a stay of the Judgment. In the circumstances the application is allowed on condition that the notice of appeal is filed and served within 7 days from date of delivery of this ruling.
9. Applicant (interested party) is to pay costs of this application.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 20TH FEBRUARY, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Miss Munga holding brief for B.G Kariuki for exparte applicant

Ngunjiri holding brief for C.P Mbaabu for interested party

Exparte applicant

Interested party

HON. LUCY. N. MBUGUA

ELC JUDGE