

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISC CASE NO. 262 OF 2017

MAINGI MUINDI.....1ST APPLICANT

JANE NJARAMBA.....2ND APPLICANT

VERSUS

COSMAS ARACHI & PAUL GITONGA

(suing as the administrator of the estate of

NICHOLAS NKUNJA).....RESPONDENT

RULING

This is an application by the original defendants in the lower court for an order that time be extended for the filing of the Memorandum of Appeal to challenge the decision of the lower court. The judgment of the lower court was delivered on 17th March, 2017. This application was filed on 30th June, 2017. That is after three and half months.

The delay is attributed to various consultations and instructions to file the appeal. From the affidavit in support of the application the applicants only challenge the quantum of damages awarded to the respondents which amounted to Kshs. 1,548,858.50.

The application is opposed and the delay is said to be inordinate. There were also suggestions from the applicants to settle the matter after the said judgment. Letters to that effect which have been attached to the affidavit have not been disputed. In fact one of the letters dated 31st March, 2017 by counsel for the applicants addressed to the counsel for the respondents asked for bank details so that payment may be made, and also that an application to invest the minor's share be made.

Seven days thereafter these details were supplied. Surprisingly, instead of compliance the applicants came up with this application. The contents of correspondence, tenor and context mitigate against the applicants' application.

I am unable to accept their plea after they made the respondent have a legitimate expectation that a settlement was due. The interest of justice demands that this matter comes to an end. Accordingly, the application is declined and dismissed with costs to the respondents.

Orders accordingly.

Dated, signed and delivered at Nairobi this 15th Day of February, 2018.

A. MBOGHOLI MSAGHA

JUDGE