

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS (CIVIL DIVISION)

MISC APPLICATION NO. 607 OF 2016

JOHN OTIENO OWOUR PLAINTIFF

VERSUS

BARCLAYS BANK OF KENYA DEFENDANT

RULING

This is an application by way of Notice of Motion seeking leave to file appeal out of time from the judgment of the lower court. The judgment of the lower court was rendered on 26th May, 2016. There was no notice of the judgment and it took several months for the applicant to know that the said judgment had been delivered. It is significant that the handwritten judgment of the lower court, which is annexed to the application, also shows that both parties were absent when it was delivered. That alone gives credence to the applicant's averment that no notice was given after the court stated that it would be delivered on notice.

I must comment that this is an application which should have been compromised because it is clear there was no notice to the parties for the delivery of the judgment. That being the case, this application is allowed and leave granted to file the appeal. The memorandum of appeal shall be filed within 14 days from today. Costs shall be on appeal.

Dated, signed and delivered at Nairobi this 26^h Day of July, 2017.

A. MBOGHOLI MSAGHA

JUDGE