

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW DIVISION

JR CASE NO 65 OF 2013

REPUBLIC.....APPLICANT

VERSUS

DISTRICT LAND REGISTRAR THIKA.....RESPONDENT

Ex-Parte

STEPHEN KIONGO KAIRU

RULING

The Applicant, Stephen Kiongo Kairu has filed a notice of motion application dated 23rd September, 2013 in which he prays for the extension of the time within which to file the substantive notice of motion. The application is supported by grounds on its face and the supporting affidavit of the Applicant sworn on 23rd September, 2013. The application is not opposed. According to the grounds in support of the application, it is stated that the leave granted to the Applicant on 23rd May, 2013 lapsed due to the Applicant's inability to raise the required fees.

When the matter came up on 18th June, 2013 the Applicant's counsel was allegedly advised by the Court to file a formal application for extension of time. The application was, however, not filed until 23rd September, 2013 due to an oversight on the part of counsel. It is argued that mistake of counsel should not be visited upon the Applicant.

In his affidavit, the Applicant swore that he lost contact with counsel and that is why he did not file the application promptly.

The Constitution provides that courts should administer justice without undue regard to technicalities- Article 159(2)(d). Although the applicant has shown laxity in the prosecution of this matter, I think it is in the interests of justice that his substantive application should be heard. The application is therefore allowed. The application was not defended and there is no order as to costs. The Applicant is directed to file and serve the substantive notice of motion within ten (10) days from the date of the delivery of this ruling.

Dated, signed and delivered at Nairobi this 30th day of April, 2014

W. KORIR,

JUDGE OF THE HIGH COURT