

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NYERI

Misc. Appli. 152 of 2008

ESTHER WANJIKU KIBUGU APPLICANT

VERSUS

JULIUS NDERITU MACHARIA RESPONDENT

RULING

Before court is a Notice of motion dated 14th July 2008. By that application the applicant seeks leave to file an appeal out of time against the decision of the land dispute appeals committed (Rift valley province) appeal No. 59 of 2006. The application further seeks stay of execution of the decree in Nanyuki SRMCC land case No. 8 of 2001. In the affidavit in support of that application the applicant stated that the appeals committed delivered its decision on 24th May 2001 but that she was not informed of the dated of the decision. It was not until 17th June 2008 when she was served with the subordinate's court decree that she realized that the appeals committee had delivered their decision. She therefore prayed that the court would grant her leave to file her appeal against the appeals committee decision out of time. The respondent who was in person responded by saying that this court should allow the appeals committee decision to be executed in the lower court. I have considered the arguments placed before me. The respondent did not dispute the applicant's contention that she was not informed of the date of the appeals committee decision. That being so I am of the view that the interest of justice would best be met by granting the applicant the prayer for extension of time to file an appeal. The other prayer for stay only sought stay of execution pending the determination of the present application. That prayer therefore is not now before me for determination. The orders of this court are as follows:-

1. This court does hereby grant leave to Esther Wanjiru Kirogo leave to file her appeal against the decision of the land dispute appeals committee (Rift valley province) appeal No. 59 of 2006 out of time. The appeal shall be filed within 21 days of this date hereof.

2. The costs of the notice of motion dated 14th July 2008 shall abide with the final decision of the appeal.

Dated and delivered at Nyeri this 10th day of February 2009.

MARY KASANGO

JUDGE