



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
MISCELLANEOU APPLICATION 47 OF 2006

TABITHA NJOKI KAGANO.....APPLICANT

VERSUS

JACOB KINYUA KAGANO.....RESPONDENT

RULING

The application is for leave to file an appeal out of time dated 10/5/2006. The applicant contends that she was supplied with the proceedings late. I note that she has annexed a certificate of delay to her affidavit in support of the said application which shows that she applied for the proceedings and a certified copy of the court's judgment on 10/1/2006. The same were supplied on 6/4/2006 and she filed the application on 10/5/2006. I would not therefore say that there was inordinate delay on the part of the applicant in this matter.

I have looked at the grounds of opposition filed against the application by Gitonga D.N & Co Advocates. The same are not signed. It is trite law that all court pleadings must be signed. The said grounds call for striking out and are therefore struck out. This would leave the application un-opposed as whatever Mr. Mugambi for the respondent said in court would have no legs to stand on.

In the circumstances, I allow the application dated 10/5/2006 and grant the applicant leave to file the said appeal. The same must be filed within 14 days of the delivery of this ruling.

W. KARANJA
JUDGE

Delivered, dated and signed at Embu this 29th day of June 2009

In presence of:-Mr Githinji for Mugambi for 2nd Respondent
Applicant present in person.

W. KARANJA
JUDGE

The application is for leave to file an appeal out of time dated 10/5/2006. The applicant contends that she was supplied with the proceedings

late. I note that she has annexed a certificate of delay to her affidavit in support of the said application which shows that she applied for the proceedings and a certified copy of the court's Judgment on 10/1/2006. The same were supplied on 6/4/2006 and she filed the application on 10/5/2006. I would not therefore say that there was inordinate delay on the part of the applicant in this matter.

I have looked at the grounds of opposition filed against the application by Gitonga D.N & Co Advocates. The same are not signed. It is trite law that all court pleadings must be signed. The said grounds call for striking out and are therefore struck out. This would leave the application un-opposed as whatever Mr. Mugambi for the respondent said in court would have no legs to stand on.

In the circumstances, I allow the application dated 10/5/2006 and grant the applicant leave to file the said appeal. The same must be filed within 14 days of the delivery of this ruling.

W. KARANJA

JUDGE

Delivered, dated and signed at Embu this 29th day of June 2009

In presence of:-Mr Githinji for Mugambi for 2nd Respondent

Applicant present in person.

W. KARANJA

JUDGE