



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU

Misc Civ Appli 191 of 2006

EMMANUEL GATHOGO.....APPLICANT

VERSUS

LAND DISPUTES TRIBUNAL KIRINYAGA DISTRICT.....1ST RESPONDENT

SENIOR RESIDENT MAGISTRATE KERUGOYA.....2ND RESPONDENT

RULING

Notice of Motion dated 22/10/2007 seeks time in which to file Notice of Motion in Judicial Proceedings for which leave was granted on 22/12/2006. The court ordered the application to be filed within 21 days in accordance with Order 53 Rule 3 (1). The delay in complying with court order was the inability by the applicant to raise funds for court fees. The applicant says he is a small time trader and at the time his daughter was in hospital for surgery he could not raise the court fees required in the sum of Shs.6,115/=hence the delay. He says his application has high chances of success. The tribunal had no jurisdiction to deal with his registered land. The application is opposed by interested party saying there is inordinate delay and the allegations as to the illness of the Applicant's child are not substantiated.

I have considered submissions made and that dispute relates to title land. The matter of extension of time is discretionary. It is my view that the explanation made by Applicant are genuine as it is made on oath. I therefore exercise my discretion in his favour. The interested party will suffer no loss. The application is allowed and orders granted as prayed. The proposed Notice of Motion shall be filed and issued within the next seven days from today.

Dated this 22nd of February, 2008.

J. N. KHAMINWA

JUDGE

22/2/2008

Khaminwa – Judge

Njue – Clerk

Mercy HB for Kariithi

Emmanuel Gathogo present in person

Read in open court in his presence.

J. N. KHAMINWA

JUDGE