

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Succession Cause 395 of 2001

IN THE MATTER OF THE ESTATE OF MACHARIA KIRIAKU ALIAS PETER NDERITU
(DECEASED)

RICHARD MWANIKI MUKUHA PETITIONER

Versus

JEREMANO WANJOHI MUKUHA OBJECTOR

RULING

This succession cause was originally before the Chief Magistrates Court at Nyeri. Whilst the matter was proceeding before that court the parties in this matter on 1st April 1992 consented to the matter being referred to arbitration. The court ordered that the arbitration award be filed in court in 120 days. It was not filed within that period and the court subsequently on different dates extended the period of filing the award. The last extension was on 10th June 1997. The period of extension has now expired and an application has been brought before Court by Jeremano Wanjohi Mukuha. In that application by notice of motion dated 20th November 2007 the applicant seeks the courts order to enlarge time for filing the arbitration award. He further seeks an order that the court be pleased to read the award to the parties. In his affidavit he set out the factual position as set out herein before. The application was opposed by Richard Mwaniki Mukuha. The opposition relates to the manner in which the arbitration proceedings were conducted. He claims that he was not allowed to call certain witnesses in his favour. I have considered the application and the opposition raised. I am of the view the opposition raised is misplaced at this stage and ought to perhaps be raised when the application to set aside the award is made. That being my view I grant the following orders.:

- 1. This court does hereby enlarge the time for filing the arbitration award. In that regard the award filed by the District Commissioner Nyeri on 3rd November 1994 is hereby deemed as being filed within time.***
- 2. This court shall read that award on 17th June 2008.***
- 3. There shall be no orders as to costs in respect of the notice of motion dated 20th November 2007.***

DATED AND DELIVERED THIS 12TH DAY OF JUNE 2008

MARY KASANGO

JUDGE