



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Miscellaneous Application 41 of 2008**

**REPUBLIC.....APPLICANT**

**VERSUS**

**THE PERMANENT SECRETARY)**

**MINISTRY OF WORKS )**

**THE PERMANENT SECRETARY)**

**MINISTRY OF ROADS ) .....RESPONDENTS**

**AND**

**ROY PROPERTIES LIMITED.....INTERESTED PARTY**

**R U L I N G**

Before me is an application by way of Notice of Motion dated 17<sup>th</sup> February 2009 and expressed to be brought under Section 3A and 95 of the Civil Procedure Act and Order XLIX Rule 5 and Order L Rules 1 and 2 of the Civil Procedure Rules in which the Applicant seeks orders that the time to file contempt proceedings against the Contemnor/Respondents be extended. In support of the application OGOTI NYANGENA Counsel acting for the Applicant has sworn an affidavit in which he avers that this Honourable Court on 18<sup>th</sup> December 2008 was pleased to grant the Applicant leave to bring contempt proceedings against the Respondents; that two days later they closed their offices and proceeded for Christmas Vacation till 12<sup>th</sup> January 2009; that on or about the 15<sup>th</sup> January 2009 he called the offices of the interested party with a view of having further instructions to bring contempt proceedings; that on talking to the Secretary of the Managing Director one Ms Kari he was liably informed that Mr. Mukhatar Omar the Managing Director of the interested party had been sick for sometime and had been advised to take a rest and that when the Managing Director had recovered sufficiently and gave instructions the time to file the contempt proceedings had expired.

Mr Nyangena submitted that the delay to bring the contempt proceedings was not intentional nor was it meant to delay quick disposal of the matter. He further submitted that the orders sought if granted will not prejudice any party involved and urged the court to grant the orders as prayed.

I have considered the application as well as the submissions by Counsel and I am satisfied that this is a suitable case to exercise my direction in favour of the Applicant.

Accordingly I grant the Application in terms of prayers 2 and 3 of the Notice of Motion dated 17<sup>th</sup> February 2009.

Dated and delivered at Nairobi this 11th day of June 2009.

**J. L. A. OSIEMO**

**JUDGE**