

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI**

**MILIMANI LAW COURTS
Civil Case 404 of 2006 (OS)**

IN THE MATTER OF CHATTELS TRANSFER ACT,

CAP 28 LAWS OF KENYA

BENJAMIN KABURI KAMURUCI
.....APPLICANT

RULING

An application made on behalf of Benjamin Kaburi Kamuruci which is brought under Order XXXVI Rule 39 of the Civil Procedure Rules and Section 9 of Chattels Transfer Act. The Applicant seeks the following prayer:-

“that the time limited by Section 6 of Chattels Transfer Act for the registration of the following instrument be extended by this Honourable Court under the powers conferred upon it by Section 9 of the said Chattels Transfer Act for a period of three months.

i) The Chattels Transfer Mortgage dated 9th March, 2006.

The Applicant’s advocate deponed an affidavit in support of the application and an extract of that affidavit is in the following terms:-

2. That on 13th march, 2006 my said firm presented the instruments referred to in the application filed herewith for stamp duty and registration but the process took too long and it was not until 25th May, 2006 that the same were received back from the said registry by my said firm.

3. That enquiries made at the said registry by me over the said delays were met with various explanations ranging from shortage of staff to excessive workload.

4. That under Section 6 of the Chattels Transfer Act the document herein referred to should have been presented for registration with the Registrar of Chattels Transfer Mortgage 21 days from the date of their creation.

5. That the said period has expired but under Section 9 of the same Act, the court has the power to extend time for registration.

6. That I verily believe it is only meet and proper that the said period be so extended as per the application now presented herewith.

Section 6 of the Chattels Transfer Act provides that a Chattel transfer instrument has to be registered within 21 days from the date of execution. Section 9 of the same Act provides that the court can extend the period of such registration if it is satisfied that the omission to register within time was accidental due to inadvertences of the Applicant. The Applicant in coming to court for extension under Section 9 he failed to annex a copy of the Chattels instrument which is the subject of the extension. Indeed that is why the court reproduced some of the paragraphs relied on by the applicant just to prove that the applicant even in this application which was exparte failed to satisfy this court in terms of Section 9. I find that I cannot say that I am satisfied with the standard required under the aforesaid section and

accordingly the application must and does fail. There shall be no orders as to costs. Orders accordingly.

MARY KASANGO

JUDGE

Dated and delivered this 27th October, 2006.

MARY KASANGO

JUDGE