



**Tome v Mosoiko & 2 others (Environment and Land Appeal
E020 of 2024) [2025] KEELC 4121 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4121 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS
ENVIRONMENT AND LAND APPEAL E020 OF 2024**

MN MWANYALE, J

MAY 29, 2025

BETWEEN

OLEMAMA TOME APPELLANT

AND

PEIPEI OLE MOSOIKO 1ST RESPONDENT

NOOLDUPO ENE SANKUI 2ND RESPONDENT

LEKAKENY SAKUI TOME 3RD RESPONDENT

RULING

1. The Appellant herein filed a Memorandum of Appeal dated 9th of August 2024 against the Judgement dated 18/7/2024 delivered by Hon. W.C Waswa in Kilgoris SP MEL No. 86/2023.
2. No further action was taken by him despite several mentions to confirm filing of the Record of Appeal and the Appellant was prompted into action upon service of the Notice to Show Cause which was slated for 5/5/2025.
3. On 5/5/2025, the Appellant counsel sought and was granted time to file an affidavit showing cause. In the meantime, this Appeal was consolidated together with Appeal No. 21/2024 as both appeals are against the same Judgement, but filed by different appellants.
4. Mr. Nyaberi learned counsel for the Appellant filed an affidavit in response to the Notice to Show Cause stating inter alia.

Indicating that he had been following proceedings with the court registry which proceedings were not ready. Hence the delay in filing the record of Appeal arose from the non-availability of the proceedings, but the Appellant was desirous of prosecuting the Appeal. He annexed one such letter calling for the proceedings.



5. I have perused the lower court file and I have seen that the proceedings were availed before the ELC on 22nd January 2025, meaning that the Advocate herein has not been candid on the issue of lack of proceedings but has been indolent given the matter was mentioned on 3/3/2025 and had previously been mentioned on 20/01/2025 when the proceedings were not ready.
6. There is no sufficient cause shown for the delay in filing the record of Appeal, but since the Affidavit was sworn by the advocate and it appears to be solely his mistake in not following up, the court shall not visit this mistake on the litigant and shall give the litigant a chance to file the record of Appeal.
7. The court directs, the record of Appeal in this Appeal as well as Appeal No. E21/2024 be filed and served 15 days and come up for directions on 23/6/2025.

DATED AT KILGORIS THIS 29TH DAY OF MAY 2025.

HON. M.N. MWANYALE

JUDGE

In the presence of

CA – Emmanuel/Sylvia

Mr. Nyaberi for the Appellant

Mr. Miruka for the Respondent

Ms. Wekesa for the Appellants in Appeal E021/24

