

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELODRET

MISC. APPLI 619 OF 2006

PETER KOSKEI

JACOB KOECH:.....APPLICANTS

VERSUS

LENA WAFUBWA:.....RESPONDENT

RULING

This is an application for extension of time. I have considered the application and the submissions by counsel for the Applicant. I have also considered the Replying affidavit and the submissions by counsel for the Respondent.

The Applicants have explained the reasons for the delay in filing the Appeal. They had informed their insurer of the judgment in good time. The insurer took time since the judgment had to be passed through various departments before instructions were given. I think that their insurers took rather a longer time than they should have. This has caused a delay of 3 ½ months.

I do not think that this delay is wholly inexcusable in the circumstances. The Applicant took steps and informed their insurers. At the very least, the applicants are lucky to have insurers who are willing and ready to stand by them. This is a good sign even for the Respondent since it appears that the Applicants are backed by an insurer which can settle the decretal sum.

I have perused the letter dated 12th July,2006 from the Applicant's advocates to the insurer. This was written well after the period for filing of appeal had expired. The contents also do not suggest any acquiescence to the judgment.

In exercise of this court's discretion and considering that there are no allegations that execution of the decree has commenced, I do hereby grant prayer 2 of the Application. The Appellants/Applicants shall file their Appeal within the next 14 days. The applicants shall pay the costs of this application to the Respondent.

DATED AND DELIVERED AT ELDORET ON THIS 28TH DAY OF NOVEMBER,2006

M.K. IBRAHIM

JUDGE