



Njabasha & 2 others v Land Registrar, Kajiado & another; Mbarnoti & 8 others (Interested Parties) (Environment and Land Appeal E042 of 2024) [2025] KEELC 1248 (KLR) (6 March 2025) (Ruling)

Neutral citation: [2025] KEELC 1248 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND APPEAL E042 OF 2024**

**MD MWANGI, J
MARCH 6, 2025**

BETWEEN

**KAAI OLE KUNINI NJABASHA 1ST APPELLANT
KELEMPU MAINKO NCHAPASHA 2ND APPELLANT
JOSHUA MOSIANY 3RD APPELLANT**

AND

**THE LAND REGISTRAR, KAJIADO 1ST RESPONDENT
THE DISTRICT SURVEYOR 2ND RESPONDENT**

AND

**PAUL MBARNOTI INTERESTED PARTY
WILLIAM KELELU INTERESTED PARTY
WILBERFORCE MUSHAKO INTERESTED PARTY
GIDEON RESANCHO INTERESTED PARTY
NENAA SITAPI INTERESTED PARTY
JOSIAH KAPONDA INTERESTED PARTY
LEKOKO PARTEU INTERESTED PARTY
KUTETE MPOKE INTERESTED PARTY
WILLIAM NTISHA INTERESTED PARTY**



RULING

(In respect to the Notice of Motion dated 8th October 2025 under Section 79 G of the [Civil Procedure Act](#) and Order 51 of the Civil Procedure Rules seeking for leave to appeal out of time)

Background

1. The Applicants *vide* their Notice of Motion dated 8th October 2025 seek leave of the court to file an appeal out of time. The intended appeal is against the decision of the Land Registrar Kajiado issued on 19th January 2024. The intended Respondents are the Land Registrar, Kajiado and the District Surveyor, who were duly served with the application and a hearing notice. They did not however respond to the application.
2. The Applicants assert that they are the owners of Land Parcels Kajiado/Dalalekutuk/3249 and 3250 respectively, and which parcels were the subject of a boundary dispute before the Land Registrar pursuant to the provisions of Section 18 (2) of the [Land Registration Act](#).
3. The Land Registrar rendered his decision on 19th January 2024 adopting the District Surveyor's findings that the said parcels of land had an increased acreage as a consequence of a private surveyor placing beacons erroneously.
4. The Applicants who were aggrieved by the decision of the Land Registrar sought to collect the decision from his office for purposes of lodging an appeal. However, they were severally informed that the decision was not ready and requested to wait for the decision. They were only able to receive it towards the end of the month of September 2024. That explains why they were unable to file the appeal within the 30 days as required under Section 79G of the [Civil Procedure Act](#).

Determination

5. Section 79G of the [Civil Procedure Act](#) as well as Section 16A of the [Environment and Land Court Act](#) gives this court the discretion to admit an appeal out of time if the Appellant satisfies the court that he had a good and sufficient cause for not filing the appeal in time.
6. The Supreme Court of Kenya in the case of [Nicholas Kiptoo Korir Arap Salat -vs- IEBC and 7 others](#) (2014) eKLR, pronounced the principles applicable in an application for leave to appeal out of time. The Supreme Court Kenya was categorical that extension of time is not a right of any party, rather it is an equitable remedy that is only available to a deserving party at the discretion of the court. A party who seeks extension of time has the burden of laying the basis to the satisfaction of the court. The court in determining the application will consider whether there is a reasonable reason for the delay.
7. Having considered the reasons advanced for the delay in this case, I am persuaded that the explanation by the Applicants is reasonable in the circumstances of this case. Further, considering the nature of the dispute and cognizant of this court's higher calling to do justice, I consider it appropriate in the interest of justice to grant leave to the Applicants to file their appeal out of time.
8. The Respondents in spite of being served did not respond to the application herein. It is therefore unopposed.
9. Consequently, exercising my discretion under Section 79G of the [Civil Procedure Act](#) as well as Section 16A of the [Environment and Land Court Act](#), I direct that the Applicants' memorandum of appeal



dated October 3, 2024 be deemed as duly filed upon payment of the requisite filing fees, if any outstanding, in the next seven (7) days from this date of this ruling.

10. The costs of the application shall be in the cause.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 6TH DAY OF MARCH 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

Ms. Gitonga h/b for Mr. Kelvin Mogeni for the Applicants

N/A for the Respondents

Court Assistant: Mpoye

M.D. MWANGI

JUDGE

