



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC MISCELLANEOUS APPLICATION CASE NO. 06 OF 2019

MARGARET KANINI MURAGE.....APPLICANT

VERSUS

KINYUA MURAGE.....RESPONDENT

RULING

1. This application has been brought to court under section 1A, 1B, 79G of the Civil Procedure Act and Order 51 Rule 1 of the Civil Procedure Rules.
2. The application seeks the following orders:
 1. That the application be certified urgent and the same be heard on a priority basis.
 2. That this Honourable court be pleased to enlarge time within which the applicant can file her appeal from the judgment in Chuka Chief Magistrate Environment and Land Case Number 166 of 2014, Margaret Kanini Murage and another versus Kinyua Murage delivered on 4th September 2019.
 3. That cost of this application be provided for.
3. The application has the following grounds:
 - a. That the applicant applied for the proceedings and judgment on 16TH September 2019 for purposes of lodging the appeal but the same were supplied on 22ND October 2019 hence the delay in lodging the appeal was occasioned by the court which did not supply the proceeding and judgment within time.
 - b. That there is no inordinate delay in lodging this application.
 - c. That the applicant has an arguable appeal which has an overwhelming chances of success.
 - d. That it is in the interest of justice that the applicant application be allowed.
 - e. That unless the orders sought herein are granted, the applicant stands to suffer irreparable loss and damages.
4. When the application came up for interpartes hearing, M/s Atieno for the applicant told the court that delay in the filing of the apposite appeal was occasioned by the late delivery of the lower court's proceedings. In support of this assertion she referred the court to a Certificate of delay filed in court. She asked the court to allow the application.
5. Mr. Joe Kathungu, holding brief for Mr. I.C. Mugo, for the respondent, told the court that the respondent did not oppose the application.
6. In the circumstances, prayer 2 in the application is granted.
7. The intended appellant is directed to file the apposite appeal documents and serve them upon the respondent within 30 days of today.
8. Parties are directed to come to court for **directions on 9.12.2019.**

9. Costs shall be in the main cause.

Delivered in Chambers at Chuka this 5th day of November, 2019 in the presence of:

CA: Ndegwa

M/s Atieno for the Appellant

Joe Kathungu h/b I.C. Mugo for the Respondent

P. M. NJOROGE,

JUDGE.