



**SLM v MSL (Miscellaneous Application E001 of 2025)  
[2025] KEHC 2702 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2702 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
MISCELLANEOUS APPLICATION E001 OF 2025**

**CM KARIUKI, J**

**MARCH 6, 2025**

**BETWEEN**

**SLM ..... APPLICANT**

**AND**

**MSL ..... RESPONDENT**

**RULING**

1. The Application and the Respondent married in 2005 and were blessed with 4 children. They lived well up to and including when the two separates on what Respondent says,  
  
“she was chased from home together with her children, who are said to be in Primary and Secondary School.”
2. By a Plaint dated 5/10/2023 she lodged Kilgoris Children’s Case No. E025/2023 seeking custody of the children’s upkeep and maintenance of the children. Defendants are said to be employees of the [particulars withheld] and a person of means through rank and salary are not stated. The defendant filed defence denying the entitlement for Applicant/Respondent reliefs in the Plaint. He stated that Respondent is employed by [particulars withheld] through Rand and Salary is not stated.
3. He averred that he had been catering for the upkeep and medicine for the minor children. He has also gotten them insured. He said he gave Respondent land to a farm and 2 posho mills to enable Respondent take care of the children. The Applicant says he earns little amount of money being his salary. However, when the trial court heard the matter, it held Applicant liable to be paying Kshs. 15,000/= every month with effect from 03/05/2024 and on or before 3<sup>rd</sup> of succeeding month.
4. He was aggrieved by the said decree thus lodged instant appeal and lodged application for stay dated 08/11/2024 in which the court on 04//02/2025 granted temporary relief to prove execution on



condition that Applicant pays Kshs. 25,000/= to the Respondent by 25/02/2025. The Application has limbs of the reliefs sought – stay of execution of time to lodge the appeal out of time.

5. The decree is dated 09/04/2024 and application is stamped filed on 22/01/2025 a delay of about 9 months. The reason for delay is that his Advocate was not communicating yet he does not state reason why he did not take the initiative to get the information on verdict of the trial court. There is no affidavit on the part of the advocate to confirm or deny accusation in the present matter.
6. That extension sought should be only granted to the deserving party. See the case of *Salat v IEBC* The applicant must lay a basis to the satisfaction of the court. Court's discretion should be exercised on a case-to-case basis. Where there is reasonable delay, same to be expressed to the satisfaction of the court. The prejudice to the respondent to be considered. Whether the application was brought without undue delay.
7. The delay of 9 months is completely unexplained. The Applicant cannot benefit from his indolence and slumbered in exercising his right of appeal. This is a court of law and must go by the law and the precedents.
8. The Applicant, having failed to account for the delay of 9 months or so, the court finds that the appeal and the application were an afterthought. Thus, the court finds no merit in see the case of *Njoroge v Kimani* [2022] KECA 1188 KLR where the court held that;  

“Applicant must give full details and accurate account of the causes of delay. In the end the explanation must be reasonable nought to excuse the default”
9. The application and makes the orders.
  - i. The Application is dismissed and interim orders vacated.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION THIS 6<sup>TH</sup> DAY OF MARCH , 2025.**

**HON. CHARLES M. KARIUKI**  
**JUDGE**

