



REPUBLIC OF KENYA



In re Bank of Baroda (Kenya) Limited & another (Miscellaneous Application E650 of 2025) [2025] KEHC 9960 (KLR) (Commercial and Tax) (10 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9960 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E650 OF 2025
BK NJOROGE, J
JULY 10, 2025
IN THE MATTER OF THE COMPANIES ACT
AND
IN THE MATTER OF AN APPLICATION TO EXTEND
THE TIME FOR REGISTRATION OF A CHARGE BY**

**IN THE MATTER OF
BANK OF BARODA (KENYA) LIMITED 1ST APPLICANT
SMART PRINTERS LIMITED 2ND APPLICANT**

RULING

1. This Ruling relates to the 1st Applicant’s application dated 9th June 2025, brought pursuant to Section 888 of the *Companies Act*, No 17 of 2015. The 1st Applicant seeks the following orders:
 1. That the time for registration under section 888 of the *Companies Act* No 17 of 2015 of the Fourth Further Charge, particulars whereof are given herewith be extended by 30 days from the date of the Order to be made herein.
2. The application is supported by the affidavit of Parth Pravinchandra Kakad, an Advocate of the High Court of Kenya practicing under the name and style of P.J. Kakad & Company Advocates LLP, sworn on even date.

Issues For Determination

3. From the foregoing, the Court identifies the sole issue for determination as follows:
 1. Whether leave should be granted to the Applicants to register the Fourth Further Charge, created on 19th November 2024, at the Companies Registry out of time.



Analysis

4. Pursuant to Section 884 of the *Companies Act*, the Registrar of Companies is mandated to maintain a register of charges, register such charges, issue certificates of registration thereof, and authenticate the same with the Registrar's Official Seal. Under Section 885 of the Act, the statutory timeline for registration of a charge is thirty (30) days from the date of its creation. In the event of non-compliance, Section 888(1) of the *Companies Act* empowers any interested party or the company itself to apply to the Court for an extension of the prescribed period for registration.
5. When considering an extension under Section 888, the Court examines whether the delay was accidental or reasonably explained, whether it prejudiced creditors or members, whether granting the extension is just and fair, and whether the omission is rectifiable.
6. This Court, in *In re HFC Limited & another* (Miscellaneous Civil Application No 32 of 2023) [2023] KEHC 2166 (KLR) (Ruling delivered on 22nd March 2023), recognized that it is vested with the discretion under Section 888 of the *Companies Act*, No 17 of 2015, to extend the time within which a charge may be registered where the statutory period has lapsed.
7. In the present case, the law mandates that such a charge must be registered with the Registrar of Companies within thirty (30) days from the date of its creation. This requirement is statutory and not discretionary. It is evident that the parties have complied with all the necessary legal requirements in the creation of the charge, save for the registration, which was delayed due to reasons sufficiently explained and which were beyond their control.
8. Based on the foregoing, the Court is satisfied that the delay in registering the Fourth Further Charge was occasioned by the ongoing digitization of government records at the Ministry of Lands, which caused the unavailability and delayed retrieval of the relevant Deed File necessary for registration. This was a system-wide issue beyond the control of the Applicant and amounts to a reasonable cause. The omission was neither deliberate nor a result of negligence. The deponent has expressly stated that the order sought will not prejudice any of the parties involved. There is no evidence on record indicating that the delay has affected the interests of any creditors, members, or third parties. It would be just, fair, and reasonable to grant the extension as the delay was caused by unavoidable administrative circumstances. Denying the extension would unfairly penalize the parties for reasons outside their control and could undermine the security rights under the Charge. The omission is rectifiable by granting the extension sought, thereby allowing the Charge to be duly registered in compliance with the *Companies Act*, 2015.
9. The purpose of registering a charge with the Registrar of Companies is to protect the interests of the chargee—in this case, the Applicants—as well as the general body of creditors, in accordance with the established principles governing a company's assets and liabilities. Failure to register a charge may result in serious consequences, particularly affecting the chargee's right of recourse against the charged property. Nonetheless, inadvertent mistakes or procedural delays should not operate to deprive a chargee of the benefit of an otherwise validly created charge. To do so would be contrary to the spirit and intent of Article 159 of the *Constitution* of Kenya and the provisions of the *Companies Act*, 2015, which emphasize the need to administer justice without undue regard to procedural technicalities.
10. In light of the foregoing, the prayers sought in the Notice of Motion dated the dated 9th June 2025 are hereby allowed.



Determination

11. The time for the registration of the Fourth Further Charge issued on Nov 19, 2024 created by Smart Printers Limited (the “Company”) in favour of Bank of Baroda (Kenya) Limited with the Registrar of Companies be and is hereby extended for a period of thirty (30) days from the date of this Ruling.
12. It is further ordered that upon registration of the said fourth charge within the extended period, the charge shall be deemed to have been duly filed with the Registrar of Companies in full compliance with the *Companies Act*, 2015.
13. Given the nature of the application, there shall be no order as to costs.
14. It is so ordered.
15. The file is hereby closed.

DATED, SIGNED AND DELIVERED AT MILIMANI THIS 10TH DAY OF JULY 2025

NJOROGE BENJAMIN K .

JUDGE

In the presence of;

N/A for the Applicants.

Mr. Luyai – Court Assistant.

