



**Ramata v Kiti (Miscellaneous Civil Application E053 of 2024)
[2024] KEHC 7145 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7145 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
MISCELLANEOUS CIVIL APPLICATION E053 OF 2024
TW CHERERE, J
JUNE 13, 2024**

BETWEEN

AHMED ABDI RAMATA APPLICANT

AND

BATI JILLO KITI RESPONDENT

RULING

1. The notice of motion dated 05th March, 2024 arises from an order dated 02nd January, 2024 made in Isiolo Kadhi MISC. 10AA of 2023 where the Respondent was ordered to pay a child's fees, hostel rent and maintenance in default of which his salary and or pension would be attached.
2. Applicant seeks extension of time to file an appeal and for stay of the orders issued on 02nd January, 2024.
3. Respondent though served neither attended court nor filed a response to the notice of motion dated 05th March, 2024.
4. I have considered the notice of motion in the light of affidavit on record and the issues for determination is whether Applicant has made out a case for extension of time to appeal and stay of execution of ruling delivered on 02nd January, 2024.
5. Under Section 79G of *Civil Procedure Act*, an appeal from a subordinate court to the high court should be filed within a period of 30 days from the date of the decree or order appealed against provided that an appeal shall be admitted out of time if the appellant satisfies the court that he had good and sufficient cause for not filing the appeal in time.



6. The principles that govern the exercise of discretion in an application for extension of time are well known. In *Andrew Kiplagat Chemaringo v Paul Kipkorir Kibet* [2018] eKLR, the Court of Appeal stated that:

“The law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the court’s flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”

7. The instant application was timeously within a period of about two months from the date of the impugned ruling.

8. I have considered the draft memorandum of appeal and the intended appeal cannot be said to be frivolous.

9. The matter involves a subject and I find that it would not in the interest of justice to stay the orders that have a direct impact on the subject’s right to education.

10. Consequently, the notice of motion dated 05th March, 2024 is allowed in the following terms:

1. Applicant is granted leave to appeal the ruling delivered in ISIOLO KADHI MISC. 10AA of 2023 on 02nd January, 2024
2. The Applicant shall file and serve the intended appeal within 45 days from today’s date
3. Costs shall abide the outcome of the intended appeal

DELIVERED AT MERU THIS 13th DAY OF June 2024

WAMAE. T. W. CHERERE

JUDGE

Appearance

Court Assistant - Morris Kinoti

For Applicant - Mr. Rerimoi for Chege Kibathi & Co. Advocates

Respondent - N/A

