



REPUBLIC OF KENYA



**Ramadhan v UAP Insurance Company Limited (Miscellaneous Application
E099 of 2023) [2023] KEHC 17434 (KLR) (2 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17434 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS APPLICATION E099 OF 2023**

DKN MAGARE, J

MAY 2, 2023

BETWEEN

ABEID RAMADHAN PLAINTIFF

AND

UAP INSURANCE COMPANY LIMITED DEFENDANT

RULING

1. The Application dated 28/3/2022 seeks orders of stay of proceedings and leave to Appeal out of time.
2. The Appeal was not filed by 28/2/2023. The Ruling was delivered on December 22, 2022. It is said that the Ruling was delivered in the absence of parties on the said date.
3. The *Civil Procedure Rules* provides that the period between 21st December, and 13th January, is not to be reckoned with. In this period matters where advocates are involved should not be dealt with. The advocates should be enjoying their vacation. Courts should fix only matters where parties are prose or the parties have requested.
4. The period is a period of General Madness, where parties and their advocates take a break to meet their families or swim.
5. This period thus has solid excuses. The full in the period is understandable. The Applicant has been late for less than 2 months. I am satisfied that leave to Appeal should be granted.
6. Regarding stay of proceedings, I am not satisfied that intended Appeal will not be considered before the trial. I will not order stay of proceedings. In any case, given that it is purely an issue of law, there is not loss in proceeding as the loss is reversible.
7. I therefore order that the Appellant be and is hereby granted leave to Appeal out of time from the Ruling dated December 22, 2022 given by D.O. Mbeja.



8. The appeal shall be filed within 14 days from today. The applicant to place the Appeal immediately for direction on hearing.
9. The prayer for stay is dismissed.

Determination

10. The application is partly allowed as follows: -
 - a. Leave is granted to the Applicant to file an appeal out of time from the Ruling of the Honorable David O. Mbeja, given on December 22, 2022 in Mombasa CMCC 256 of 2022.
 - b. The order of stay of proceedings is declined.
 - c. The memorandum of appeal be filed within 14 days.
 - d. The Applicant herein to place the matters before court together with order appealed from for directions.
 - e. Each party to bear their costs.
 - f. This file is closed.

DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 2ND DAY OF MAY, 2023. RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.

KIZITO MAGARE

JUDGE

In the presence of:

Miss Monari for the Applicant

No appearance for the Respondent

Court Assistant – Aziza

