



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUNGOMA**

**MISC. CIVIL APPLICATION NO.26 OF 2017**

**RISPER NALIAKA SIMIYU.....APPLICANT**

**VERSUS**

**KENYA POWER & LIGHTING CO. LIMITED....RESPONDENT**

**RULING**

1. The Applicant Risper Naliaka Simiyu had sued the Respondent Kenya Power & Lighting Company in CMCC No.52 of 2011 (Bungoma).

After hearing of the case, the learned Magistrate dismissed the Case with costs.

2. The judgement was delivered on 7<sup>th</sup> June, 2016. The appellant is now desirous of filing an appeal more than 1 year after delivery of the said judgement.

3. The application before me seeks for enlargement of time on grounds that the applicant who is of advanced age was not aware that judgement had been delivered due to miscommunication and/or lack of communication between her and her lawyer than on record, and also due to an illness that kept her away from her usual residence for a long period of time.

4. Justice demands that when sufficient reason is given by a litigant why there has been a delay in undertaking steps necessary in a case, the litigant ought not to be shut out.

5. Though I agree with the respondent that a delay of one year is long, I find that sufficient reasons have been adduced.

6. Allowing the appeal will in no way prejudice the respondent.

7. The application is therefore allowed. Appeal be filed within the next 7 days.

8. Costs to follow the outcome of the appeal.

**DATED and DELIVERED at BUNGOMA this 1<sup>st</sup> day of February, 2018**

**ALI-ARONI**

**JUDGE**