

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

MISC. CIVIL CASE NO. 06 OF 2018

PATRICK O. BARONGO

t/a BAMA AUCTIONEERS.....APPLICANT

=VRS=

ARISON OMWENGA ABEL.....-RESPONDENT

**(Being an Appeal from the Decision of the Auctioneers Licensing Board delivered at Nairobi on the 15th January 2018 in
Disciplinary Cause No. 38 of 2016)**

BETWEEN

ARISON OMWENGA ABEL.....COMPLAINANT

=VRS=

PATRICK O. BARONGO

t/a BAMA AUCTIONEERS.....-AUCTIONEER

RULING

The Applicant's application in the Notice of Motion dated 8th May, 2018 is for leave to appeal out of time and for stay of execution of the decision of the Auctioneers Licencing Board pending hearing and determination of the appeal.

The gist of the application is that the complaint against him at the Board was heard in his absence and that the Board did not heed his written presentations denying wrong doing in the matter, and further that he stands to be greatly prejudiced by the decision of the Board.

The application was not opposed and neither did the Respondent attend the hearing despite service upon the Advocates who acted for him at the Board.

I have nevertheless, upon a careful consideration of the application, found no merit in it. Firstly, the application has either deliberately or negligently omitted to attach the proceedings of the Board leading to the impugned decision and this Court is therefore not in a position to confirm the veracity of his assertion that the Board did not accord him a hearing. He has also not annexed an affidavit from his Lawyer as would confirm that he received the decision of the Board late or that he received the letter dated 26th January, 2018 long after the period limited for appeals had lapsed. In the light of such material non-disclosure it is my finding that even the delay of four months in bringing this application is inordinate.

In the premises the Notice of Motion dated 8th May, 2018 is dismissed with an order that the Applicant shall bear the costs.

It is so ordered.

Signed, dated and delivered in open Court this 5th day of July, 2018.

E. N. MAINA

JUDGE