



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

MISC. CIVIL APPL. NO. 56 OF 2015

CHARLES MUKURU NJERU.....APPLICANT

VERSUS

LAWRENCE MIRITI M'RACHI.....1ST RESPONDENT

JULIUS NJERU M'RITHAA.....2ND RESPONDENT

R U L I N G

1. This application is dated 03/08/2015 and seeks orders:-

- 1. THAT the Honourable Court be pleased to certify this application urgent and hear the same without delay owing to its urgent nature.***
- 2. THAT the Honourable Court be pleased to grant the applicant leave to appeal from the Judgment in CHUKA SPMCC NO. 36 OF 2012 out of time.***
- 3. THAT upon granting prayer No. 2 herein above, the Honourable Court do give the applicant time within which to file the appeal.***
- 4. THAT costs of this application be in the cause.***

2. The application is supported by the Affidavit of Charles Mukuru Njeru and has the following grounds:-

- 1. Judgment in this case was delivered by B.N. IRERI, the Acting Principal Magistrate on 29th May, 2015 in which the applicant lost.***
- 2. The applicant applied to be supplied with the proceedings and judgment in the said CHUKA SPMCC NO. 36 OF 2012.***
- 3. It was not until 29th July, 2015 that the proceedings and judgment were supplied to the applicant.***
- 4. By the time the proceedings and judgment were being supplied to the applicant, time to appeal the said judgment by Acting Principal Magistrate B.N. IRERI had lapsed.***
- 5. The applicant has already been supplied with the certificate of delay in the said CHUKA SPMCC NO. 36 OF 2012.***

6. The delay in filing the appeal in CHUKA SPMCC NO. 36 OF 2012 was not intentional but caused by delay in being supplied with the proceedings and judgment.

7. It is only just and fair that the prayers sought in this application be allowed.

8. No prejudice will be occasioned to the respondents if the application herein is allowed.

3. When the application came up for directions on 10/11/2015, there was evidence that the 2nd defendant had been properly served. The 1st defendant was in Court and made indications that he was not keen on responding to the application.

4. In the circumstances, I find that the application is not opposed.

5. It is allowed with the effect that the applicant is granted leave to file an appeal from the judgment in Chuka SPMCC No. 36 of 2012.

6. The applicant should file the apposite appeal within 30 days.

7. Costs shall be in the cause.

8. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 10TH DAY OF NOVEMBER, 2016 IN THE
PRESENCE OF :-**

CA: DANIEL /JAMES

Nyamu Nyaga for the Applicant

P.M. NJOROGE

JUDGE