



Imexolutions Limited v Business Registrations Services (Miscellaneous Application E1011 of 2025) [2025] KEHC 14533 (KLR) (Commercial and Tax) (9 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14533 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E1011 OF 2025**

BK NJOROGE, J

OCTOBER 9, 2025

**IN THE MATTER OF THE COMPANIES ACT (NO. 17 OF 2015) LAWS OF KENYA
IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME FOR THE
REGISTRATION OF A FURTHER CHARGE RELATING TO PARCEL NUMBER 16CII
ON LAND REFERENCE 30564, KIAMBU IN THE NAME OF IMEXOLUTIONS LIMITED**

BETWEEN

IMEXOLUTIONS LIMITED APPLICANT

AND

BUSINESS REGISTRATIONS SERVICES RESPONDENT

RULING

1. This Ruling pertains to the Applicant’s *ex parte* Notice of Motion dated 6th October, 2025, brought pursuant to Order 51 Rule 1 of the Civil Procedure Rules 2010, Section 1A, 1B, 3, 3A of the *Civil Procedure Act* and Sections 885, and 888 of the *Companies Act*, 2015 and all other enabling provisions of the law. Through the said application, the Applicant has moved this Court seeking the following reliefs:
 - a. Spent.
 - b. The time for registration of the Charge over Parcel Number 16cii on Land Reference No. 30564 Kiambu in the name Applicant be extended beyond the statutory provided period of 30 days.
2. This Application was supported by the sworn affidavit of Sharone Chepngetich Langat, an Advocate of the High Court of Kenya, dated the same day as the Application. Ms. Langat practices in the firm of M/s Mburu Maina & Company Advocates, who have conduct of this matter on behalf of the Applicant.



Issues For Determination

3. The Court has carefully considered the Motion, the statutory provisions cited, the Supporting Affidavit, and the annexures thereto. Upon such consideration, the Court is of the view that only one issue arises for determination:
 - a. Whether leave should be granted to the Applicant to register the Charge over Parcel Number 16cii on Land Reference No. 30564 Kiambu in the name Applicant at the Companies Registry out of time.

Analysis

4. Pursuant to Section 884 of the *Companies Act*, the Registrar of Companies is mandated to maintain a register of charges, register such charges, issue certificates of registration thereof, and authenticate the same with the Registrar's Official Seal. Under Section 885 of the Act, the statutory timeline for registration of a charge is thirty (30) days from the date of its creation. In the event of non-compliance, Section 888(1) of the *Companies Act* empowers any interested party or the company itself to apply to the Court for an extension of the prescribed period for registration.
5. Further, when considering an extension under Section 888, the Court examines whether the delay was accidental or reasonably explained, whether it prejudiced creditors or members, whether granting the extension is just and fair, and whether the omission is rectifiable. This requirement that such a charge must be registered with the Registrar of Companies within thirty (30) days from the date of its creation is statutory and not discretionary. It is evident that the parties have complied with all the necessary legal requirements in the creation of the charge, save for the registration, which was delayed due to reasons sufficiently explained and which were beyond their control.
6. In her affidavit, Counsel for the Applicant deponed that she was aware that her firm had been instructed by Sbm Bank Kenya Limited to register a Charge over Parcel Number 16cii on Land Reference No. 30564 Kiambu in the name Applicant to secure advances to the Applicant. Accordingly, the firm commenced registration of the Charge on 7th August, 2025 which was concluded on 20th August, 2025. The process was, however, delayed in part due to delays in the availability of the Directors which lead to delays in the registration.
7. Counsel averred that, while they were able to obtain duly registered security documents from the Lands Registry, they were unable to register the Charge at the Companies Registry as the statutory period for such registration had already lapsed during the period taken to assess, stamp, and register the Charge at the Lands Office. Pursuant to Section 885 of the *Companies Act*, No. 17 of 2015, the Company was required to register the Charge with the Registrar of Companies within thirty (30) days from the date of its creation. The delay in presenting the Charge for registration at the Companies Registry was occasioned by delays due to the unavailability of the Directors, which delay was unintentional and beyond the control of both the Applicant.
8. The omission in the present case pertains solely to the failure to register the Charge at the Companies Registry within the statutory period prescribed under Section 885 of the *Companies Act*. Notwithstanding this procedural lapse, the Charge was duly executed, assessed for stamp duty, duly franked, and registered at the Lands Registry. The omission is therefore procedural in nature and, in the Court's view, clearly rectifiable. While it is acknowledged that non-registration at the Companies Registry may affect the enforceability of the Charge as against third parties, the failure to comply with the prescribed timeline was neither wilful nor negligent. In the circumstances, the delay should not defeat an otherwise valid security instrument. This approach aligns with the provisions of Article



159(2)(d) of *the Constitution*, which enjoins Courts to administer justice without undue regard to procedural technicalities, and with the general principles of the *Companies Act*, which favour the promotion of substantive rights and commercial certainty.

9. There is no evidence on record to suggest that the delay in registration has occasioned any prejudice to the company's creditors or members. On the contrary, the regularisation of the registration will enhance the protection of the lender's interest and promote commercial transparency. The affidavit and annexures confirm that all substantive steps in the creation of the Charge, execution, stamping, and registration at the Lands Registry, were duly undertaken in a timely manner, save for the Companies Registry filing. Accordingly, the Court is satisfied that the Applicant has provided a reasonable explanation for the delay, that the omission is capable of remedy, and that no prejudice has been occasioned to any party. The Court therefore finds it just and equitable to exercise its discretion under Section 888(1) of the *Companies Act*. In the result, the prayers sought in the Notice of Motion dated 06th October, 2025 are hereby granted.

Determination

10. The Applicant's application by way of a Notice of Motion dated 06th October, 2025 is allowed as follows;
- a. The time for registration of the Charge over Parcel Number 16cii on Land Reference No. 30564 Kiambu in the name Applicant be extended beyond the statutory provided period of 30 days from the date of this Ruling.
 - b. It is further ordered that upon registration of the said charge within the extended period, the charge shall be deemed to have been duly filed with the Registrar of Companies in full compliance with the *Companies Act*, 2015.
 - c. Given the nature of the application, there shall be no order as to costs.
11. It is so ordered.
12. The file is hereby closed.

DATED, SIGNED AND DELIVERED AT MILIMANI THIS 09TH DAY OF OCTOBER, 2025.

NJOROGE BENJAMIN K.

JUDGE

In the presence of;

Miss Langat for the Applicant.

Mr. Peter Wabwire - Court Assistant

