



REPUBLIC OF KENYA



KENYA LAW
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**Gitata v Gitata & 5 others (Civil Application E132 of 2025)
[2025] KECA 1750 (KLR) (24 October 2025) (Ruling)**

Neutral citation: [2025] KECA 1750 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPLICATION E132 OF 2025
S OLE KANTAI, JA
OCTOBER 24, 2025**

BETWEEN

PHABIOUS MURIITHI GITATA APPLICANT

AND

MACHARIA GITATA 1ST RESPONDENT

EUNICE WANJIRA GITATA 2ND RESPONDENT

LAWRENCE MWANGI 3RD RESPONDENT

SALOME MIRIGO KABUTHI 4TH RESPONDENT

GLADYS WACHUKA GITATA 5TH RESPONDENT

MANAGER EQUITY BANK-MUKURWE-INI 6TH RESPONDENT

*(An application for extension of time to file a Notice of Appeal out of time
against the Judgment of the High Court of Kenya at Nyeri (Maureen A. Odera,
J.) delivered on 4th July, 2025 in H.C. Misc. Civil Case No. E065 of 2021)*

RULING

1. The principles that guide the Court in exercise of the unfettered discretion donated by rule 4 of the Court of Appeal Rules were considered in *Leo Sila Mutiso vs. Rose Hellen Wangari Mwangi* Civil Application No. NAI 255 of 1997 as follows:

It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well stated that in general the matters which this Court takes into account in deciding whether to grant an extension of time, are first, the length of the delay, secondly, the reason for the delay, thirdly (possibly) the chances of the



appeal succeeding if the application is granted, and fourthly, the degree of prejudice to the respondent if the application is granted."

2. The applicant, Phabious Muriithi Gitata acting in person, has brought this application headed: " An application for extension of time in lodging the Appeal against the decision and or Ruling of the High Court of Kenya at Nyeri (MAUREEN A. ODERO J.) in the High Court Misc. Civil case No. E065 of 2021 dated 4th day of July 2025." He prays that the Court be pleased to grant to him extension of time to lodge an appeal. He seems very upset with the way his siblings (the respondents) have treated him after the subordinate court appointed him as the guardian of his father James Gitara Kaara. He alleges that they abducted his father and took him to a hiding place in Kirinyaga but he does not say at all why he did not appeal the decision of the High Court on time or at all. I have seen the ruling of the High Court delivered on 4th July, 2025 dismissing the applicant's application. Without being told why there has been a delay in filing an appeal on time I have no material on which I can exercise my discretion in the matter at all.
3. I have noted that the respondents were served with a hearing notice on 7th October, 2025 at kinyua kiama advocates (kkadvocates@gmail.com) but did not respond to the application.
4. I find the application to have no merit and I dismiss it accordingly.

DATED AND DELIVERED AT NYERI THIS 24TH DAY OF OCTOBER, 2025.

S. ole KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

Deputy Registrar

