



Thairu v County Secretary, Nairobi City County & 2 others (Civil Appeal (Application) E223 of 2022) [2025] KECA 1756 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KECA 1756 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) E223 OF 2022
DK MUSINGA, JA
OCTOBER 24, 2025**

BETWEEN

JOSEPH NJUGUNA THAIRU APPLICANT

AND

COUNTY SECRETARY, NAIROBI CITY COUNTY 1ST RESPONDENT

**CHIEF FINANCE OFFICER/COUNTY TREASURER NAIROBI CITY
COUNTY 2ND RESPONDENT**

HON ATTORNEY GENERAL 3RD RESPONDENT

(Being an application for extension of time to file and serve record of appeal and memorandum of appeal out of time against the Judgment of the High Court of Kenya (Judicial Review Division) (Mativo, J.) dated 14th May 2020 in JR Misc. Application No. 182 of 2019)

RULING

1. The applicant's notice of motion dated 24th June 2025 seeks extension of time to file and serve the record and memorandum of appeal from the judgment of the High Court delivered on 14th May 2020. In its affidavit in support of the application sworn by Elizabeth M. Gatuhi, an advocate in the firm of Ndungu Njoroge & Kwach Advocates, the applicant states that on 14th May 2020, the High Court entered judgment in favour of the respondents; that subsequently the applicant filed and served a notice of appeal on time and applied for certified copies of the judgment, decree, proceedings and a certificate of delay. The certified copies of the judgment and proceedings as well as the certificate of delay were issued on 11th August 2021.
2. The applicant filed the record of appeal on 14th April 2022, outside the stipulated timelines due to the Covid-pandemic related circumstances and substantial internal restructuring in the applicant's advocate's firm. The applicant contends that the appeal is arguable as it raises weighty points of law.



3. The application is not opposed. That notwithstanding, I must still consider it in light of the principles set by this Court in respect of applications for extension of time.
4. Rule 4 of this Court's Rules grants this Court unfettered discretion to extend the time limited by the Rules or by any decision of the Court. However, such discretion must be exercised judiciously and on sound principles. In so doing, the Court has to consider several factors, among them, the length of the delay; the reason for the delay; whether the intended appeal is arguable; the degree of prejudice to the respondent if the application is granted; whether the applicant acted with diligence; and whether there is a public interest element in the matter. [See Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 7 Others [2014] eKLR].
5. The delay in filing and service of the record of appeal has been well explained by the applicant. I have also looked at the memorandum of appeal and I am satisfied that the appeal is arguable. The respondents will not be prejudiced if this application is granted. Consequently, I grant the orders as prayed but make no order as to costs.

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

D. K. MUSINGA, [PRESIDENT]

JUDGE OF APPEAL

