



REPUBLIC OF KENYA



KENYA LAW
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**Ngunju & 16 others v Kenya Forest Service & another (Petition
E003 of 2024) [2025] KEELC 7374 (KLR) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7374 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI**

PETITION E003 OF 2024

L NDOLO, J

OCTOBER 30, 2025

**IN THE MATTER OF ARTICLES 2, 3, 10, 19, 20, 21, 22, 23, 27, 41, 47,
232, 258, 259 AND 260 OF THE CONSTITUTION OF KENYA, 2010**

AND

IN THE MATTER OF SECTION 3 OF THE EMPLOYMENT ACT

AND

**IN THE MATTER OF SECTIONS 4, 7, 8, 9, 10 AND
11 OF THE FAIR ADMINISTRATIVE ACTIONS ACT**

AND

**IN THE MATTER OF RULES 4, 10, 11, 22, 23 AND 24 OF THE
CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND
FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013**

AND

**IN THE MATTER OF RULE 7 OF THE EMPLOYMENT AND
LABOUR RELATIONS COURT (PROCEDURE) RULES, 2016**

BETWEEN

JOHN WARURU NGUNJU 1ST PETITIONER
DOUGLAS MUIUKI NJAGI 2ND PETITIONER
DANISH OUMA AIRO 3RD PETITIONER
SILAS KIPLAGAT KURUI 4TH PETITIONER
ALICE GAKII NTHIGA 5TH PETITIONER
PRISCILA AKINYI ODUOR 6TH PETITIONER
SAMUEL OOKO KWANYA 7TH PETITIONER



JOSEPH ANYONA TOMBE	8 TH PETITIONER
MAURINE AKEYO ODERO	9 TH PETITIONER
DICKSON ACHOLA OJIAMBO	10 TH PETITIONER
DANIEL MAIKURI	11 TH PETITIONER
DANIEL BOLLEI	12 TH PETITIONER
KIPKETER KIPCHIRCHIR	13 TH PETITIONER
STEPHEN MACHARIA	14 TH PETITIONER
GEOFFREY MUHOLELA	15 TH PETITIONER
CECILIA GERALD	16 TH PETITIONER
RONALD AUGO	17 TH PETITIONER

AND

KENYA FOREST SERVICE	1 ST RESPONDENT
THE HON ATTORNEY GENERAL	2 ND RESPONDENT

RULING

1. This ruling flows from a Notice of Motion dated 20th August 2025, by which the 1st Respondent, Kenya Forest Service, seeks leave to file and serve notice of appeal out of time.
2. The application is supported by an affidavit sworn by Patrick Leshoo Tialal and is premised on the following grounds:
 - a. That the Court, in its judgment of 11th July 2025, declared the 1st Respondent to have violated the Petitioners' right to fair labour practices under Article 41 of *the Constitution*;
 - b. That the 1st Respondent is aggrieved by the decision and wishes to appeal against it;
 - c. That the Respondents are yet to lodge a notice of appeal for the reason that they were not aware of the judgment until 25th July 2025, when the Petitioners served them with the judgment and a demand letter requiring them to comply with the judgment. The Attorney General is said to have advised the 1st Respondent to appeal the judgment, by letter received on 19th August 2025;
 - d. That in the circumstances, the delay in lodging the notice of appeal is justifiable and is not inordinate;
 - e. That the intended appeal is premised on reasonable grounds, with high chances of success, and if the order sought is not granted, the Respondents will unfairly and unjustly lose the right of appeal;
 - f. That it is in the interest of justice for the Court to enlarge time for the Respondents to file and serve a notice of appeal;
 - g. That the application is made in good faith.



3. The Petitioners oppose the application by a replying affidavit sworn by the 1st Petitioner, John Waruru Ngunju on 1st September 2025. He terms the application as vexatious and frivolous.
4. Ngunju depones that the Petitioners filed their own notice of appeal on 22nd July 2025. He points out that the Attorney General has been on record throughout the proceedings until delivery of the judgment.
5. According to the Petitioners, it is inconceivable that the Attorney General did not communicate the outcome of the judgment until the 1st Respondent was served with a demand letter on 23rd July 2025.
6. It is deponed that the current application was filed as an afterthought after the 1st Respondent was served with a demand letter and a notice of appeal.
7. The Petitioners take the view that the 1st Respondent's decision to change Advocates was a ploy to lay blame on the Attorney General for the failure to lodge a notice of appeal in time.
8. The Petitioners state that judgment having been delivered on 11th July 2025, filing an application for extension of time to file a notice of appeal on 20th August 2025, creates inordinate delay.
9. The Petitioners conclude that the application does not serve any purpose as the Respondents can file a cross appeal upon being served with the Petitioners' appeal.
10. The Respondents base their application on Order 50 Rule 6 of the Civil Procedure Rules, which provides as follows:

“

- “ 6. Where a limited time has been fixed for doing any act or taking any proceedings under these Rules, or by summary notice or by order of the court, the court shall have power to enlarge such time upon such terms (if any) as the justice of the case may require, and such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed

Provided that the costs of any application to extend such time and of any order made thereon shall be borne by the parties making such application, unless the court orders otherwise.

11. In its submissions in support of the application dated 29th August 2025, the 1st Respondent cited the decision in *Margaret Njoki Kamau v Reuben Ndivo Mwangi* [2021] KEELC 4616 (KLR) where it was affirmed that the power to enlarge time under Order 50 Rule 6 is discretionary.
12. Both sides made reference to the decision in *Salat v Independent Electoral and Boundaries Commission & 7 Others* [2014] KESC 12 (KLR) where the Supreme Court set out the following principles to be applied in considering a plea for extension of time:
 - “ a. Extension of time is not a right of a party. It is an equitable remedy that is only available to a deserving party at the discretion of the court;
 - b. A party who seeks extension of time has the burden of laying a basis to the satisfaction of the court;
 - c. Whether the court should exercise the discretion to extend time, is a consideration to be made on a case-to-case basis;



- d. Whether there is a reasonable reason for the delay. The delay should be explained to the satisfaction of the court;
 - e. Whether there will be any prejudice suffered by the respondents if the extension is granted;
 - f. Whether the application has been brought without undue delay.
13. The 1st Respondent assigns the delay in lodging the notice of appeal to a communication lapse between itself and the Office of the Attorney General. To my mind, this explanation is reasonable. Further, the delay cannot be said to be inordinate and the Petitioners will not suffer any prejudice as they themselves have expressed their intention to appeal the judgment.
14. For the foregoing reasons, I find and hold that a case has been made for extension of time for lodging a notice of appeal. The said notice to be filed and served within the next seven (7) days from the date of this ruling.
15. The 1st Respondent, the applicant in the Motion, will pay the costs of the application.
16. Orders accordingly.

DELIVERED VIRTUALLY THIS 30TH DAY OCTOBER 2025

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JUDGE

Appearance:

Mr. Makura for the Petitioner

Mr. Kalii for the Respondent

