



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT KISUMU

APPEAL NO. E050 OF 2025

**CONSOLIDATED WITH APPEAL NOS E051/2025,
E052/2025, E053/2025, E054/2025, E055/2025,
E056/2025, E057/2025, E058/2025, E059/2025,
E060/2025, E061/2025 AND E062/2025**

PORTFLORENCE

COMMUNITY

HOSPITAL.....**APPELLANT**

VERSUS

CAREN

CHEROTICH

&

12

OTHERS.....**RESPONDENTS**

RULING

1. A notice to show cause was issued by this Court in respect of each of the 13 appeals where memorandums of appeal were filed on 29th July 2025. The Appellant had not appeared in Court despite various mention notices issued by the Court prompting the issuance of the notices to show cause on 31st October 2025.
2. Today, there is an appearance by an advocate named Mr. Abira who states that yesterday, a record of appeal was filed in respect of Appeal No.s E052/2025, E054/2025, E055/2025, E057/2025, E058/2025 and E059/2025 and that only service has not been effected upon the Respondent's Counsel. He indicated that appeal records for Appeal No.s E050/2025, E051/2025, E053/2025, E055/2025 and E056/2025 will be filed by close of business today since the scanner broke down yesterday delaying filing. He seeks the indulgence of the Court and that of his colleague to allow the filing.
3. Counsel for the Respondents Mr. Ojwang' is opposed to the extension as no explanation has been offered and that today is the very first time there has been appearance for the

Appellant. He notes the advocate who has appeared is even different from the Counsel who is on record and there has been no notice of change of advocates or other notification on the change of counsel. He asserts the filing period as per Rule 13 of the Rules of this Court expired a long time ago and there was no extension of the time to file the records of appeal. He asserts there has been no extension sought to have the time extended. He thus urges the dismissal of the appeals with costs as there is demonstrable laxity in pursuing the appeals. He states that should the Court be minded to admit the appeals it would be appropriate to order there be a deposit of the entire decretal sum in the Appeals in a joint interest earning account.

Disposition

4. The provisions of the Employment and Labour Relations Court (Procedure) Rules 2024 indicate as follows in regards to appeals. Rules 13, 14 and 15 provide as follows

13. Service of memorandum of appeal

A memorandum of appeal shall be served upon the respondent within twenty-one days from the date of filing.

14. Form of memorandum of appeal

A memorandum of appeal shall be in Form 1 as set out in the First Schedule with necessary modification.

15. Record of appeal

(1) A memorandum of appeal shall be accompanied by a record of appeal comprising a certified copy of pleadings, the proceedings, any documentary evidence relied on, and the judgment, ruling, decision, order, decree or award appealed against.

(2) Where the record of appeal is not filed together with the memorandum of appeal, the appellant shall file the Record within sixty days from the date of delivery of the judgment, ruling, decision, order, decree or award appealed against.

5. The Appellant herein has not done any of the above within the time frame provided for in the law. The Respondent is correct in the surmise that leave should be obtained for extension. The Court has heard the request by Counsel for the Appellant seeking time till close of business today to make preparation and avail the records of appeal that are outstanding.

6. The Court has confirmed by sampling one set of the record of appeals filed in respect of the series is running over 220 pages. As such it is plausible the machine/scanner broke down. The Appellant is given 24 hours to file the remaining records of appeal and shall as a condition of obtaining leave to file the appeals out of time have to deposit the entire decretal sum in respect of each Appeal in a joint interest earning account of the Counsel on record for the Appellant and the Respondent within 30 days of today. There will be a mention of the entire series of Appeals in this matter on 15th December 2025 whereat the records should have been placed on the individual files in compliance with Rule 24 of the Rules of this Court and a deposit into a joint account as directed above will of necessity have to be demonstrated. Compliance or the lack thereof will determine the direction the cases will take on 15th December 2025.

Orders accordingly.

Dated and delivered at Nairobi this 13th day of

November 2025

**Nzioki wa Makau, MCI Arb.
JUDGE**