

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA NAIROBI
CIVIL APPELLATE DIVISION
HCCA E1034 OF 2024

STICHING FCM KENYA.....1ST
APPLICANT

DIDAKUS MACHUKA MOCHACHE 2ND
APPLICANT

CETRICK FREDRICK LUBEMBE3RD
APPLICANT

VERSUS

STEPHEN MURUNGI1ST
RESPONDENT

PATRICK NDEREBA.....2ND
RESPONDENT

RULING

1. This is an Application for stay pending Appeal and to appeal out of time. The right to file an Appeal is constitutional and so it is rarely rejected. The Appellants' delay in filing this Appeal is around four months which to me, cannot be regarded as inordinate. The reason for this delay is "miscommunication" between the Applicants and their advocates. Although this cannot be proved sufficiently, it cannot either be rebutted sufficiently.
2. I have looked at the Memorandum of appeal and noted that there are issues that require scrutiny at this level and so the Appeal cannot be termed as an abuse of the Court process.

On the issue of prejudice, the Court must balance the right of Appeal and the right to enjoy the fruits of Judgement. This can only be done by issuing a conditional stay. Previously, there was a conditional stay and so I shall affirm them without extension of the period to comply.

3. The Application is allowed. The Respondent shall have costs.

**DATED DELIVERED VIRTUALLY AND SIGNED ON THIS 18TH
DAY OF NOVEMBER 2025.**

HON L P KASSAN

JUDGE

In the presence of;

No appearance for Applicant

Mutembei for Respondent

Carol - Court Assistant

ORDER

Mention before the Deputy Registrar on 27/1/2026.



HON L P KASSAN

JUDGE

