



**Seria Limited v Munene (Civil Application E182 of 2025)
[2025] KECA 1993 (KLR) (21 November 2025) (Ruling)**

Neutral citation: [2025] KECA 1993 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E182 OF 2025
F SICHALE, JA
NOVEMBER 21, 2025**

BETWEEN

SERIA LIMITED APPLICANT

AND

LYDIA MUNENE RESPONDENT

(Being an Application for Extension of Time to file Notice of Appeal and an intended Appeal from the Judgment of the Environment and Land Court (L. Komingoi J), dated 26th September 2024 in (Kajiado ELC Appeal No. E006 of 2023)

RULING

1. Before me is the motion on notice dated 6th March 2025, brought under Sections 3A & 3B of the *Appellate Jurisdiction Act*, Sections 1A, 1B & 3A of the *Civil Procedure Act*; Rule 4 and 77 of the Court of Appeal Rules 2022 and Article 159 (2) (b) and (e) of *the Constitution* of Kenya, 2010 in which Seria Limited(“the applicant”) herein, seeks the following orders;
 - “i. Spent.
 - ii. THAT the Honourable Court allow the Notice of Appeal dated and filed on 26th February 2025 at the Kajiado ELC out of time and deem it properly filed within time.
 - iii. THAT the Honourable Court be pleased to extend time for the filing of the Memorandum of and Record of Appeal for the intended appeal.
 - iv. THAT costs of this application be provided for.”
2. The motion is supported on the grounds on the face of the motion and an affidavit sworn by John Simel Sokoto a Director of the applicant, who deposed inter alia that he was a layman not well versed



- with legal procedural issues and that upon delivery of the impugned judgment on 26th September 2024, there was breakdown of communication between the applicant and its previous counsel and that the applicant was therefore unaware of the decision and its import.
3. That, the applicant had an arguable appeal with a likelihood of success based on several fundamental issues of law upon which the trial court and the Superior Court erred and that further the delay herein was not overwhelmingly inordinate which delay had in any event been explained.
 4. There was no response on the part of the respondent despite having been served with a copy of the application and the hearing notice on 26th March and 6th October 2025, respectively.
 5. The applicant while acknowledging the delay in filing the Notice of Appeal submitted that the same was not inordinate but was attributable to the unresponsiveness of its former advocates and that as such, there was sufficient cause to justify the delay in filing the Notice of Appeal.
 6. Turning to prejudice, it was submitted that granting extension of time would not unduly prejudice the respondent who was in any event in occupation of the suit property.
 7. I have carefully considered the motion, the grounds thereof, the supporting affidavit, the applicant's submissions, the cited authorities and the law.
 8. The principles upon which this Court exercises its discretion pursuant to Rule 4 to extend time or not have now taken a well beaten path. The Court has wide and unfettered discretion in deciding whether to extend time or not. However, in exercising its discretion, the Court should do so judiciously.
 9. See *Mwangi vs. Kenya Airways Limited* (2003) KLR 486 where this Court stated thus:

“Over the years, the Court has set out guidelines on what a single Judge should consider when dealing with an application for extension of time under Rule
 10. In the instant case and as regards the length of the delay, the impugned judgment was delivered on 26th September 2024, whereas the instant motion was filed on or about 6th March 2025. There has therefore been a delay of about 6 months, which delay from the circumstances of this case I do not consider to be inordinate.
 11. Turning to reasons proffered for failing to file the appeal on time, it was contended by the applicant that its Director was a layman who was not well versed in legal procedural issues and that upon the judgment being delivered on 26th September 2024, there was a breakdown of communication between the applicant and its previous advocate and the applicant was therefore unaware of the impugned decision nor its import.
 12. I consider the reasons given for failing to file the appeal on time to be plausible/reasonable as the applicant is blaming communication breakdown between it and its previous advocates for failure to file the appeal on time, a fact that has not been controverted by the respondent as she did not even file a response to the motion despite having been served with a copy of the same.
 13. Given the circumstances of this case, I consider the reasons given for the delay to be reasonable/plausible and ultimately therefore, I am of the considered opinion that the delay herein has been sufficiently explained to the satisfaction of this Court.
 14. As to the arguability or otherwise of the intended appeal, I cannot make a determination of this issue sitting as a Single Judge and I will therefore not delve further on the same.



15. Finally on prejudice, I am satisfied that the respondent will not stand to suffer any prejudice if the instant motion is allowed as she has not even opposed the motion and further, she is currently in occupation of the suit property.
16. On the other hand, if the instant motion is not allowed the applicant will stand to suffer prejudice as it will have been completely shut out from the seat of justice.
17. Taking into totality all the circumstances of this case, I am of the considered view that the applicant has demonstrated and satisfied the existence of the principles for consideration in the exercise of my unfettered discretion pursuant to Rule 4 of this Court to extend time.
18. Accordingly, the applicant's motion dated 6th March 2025, is merited and the same is hereby allowed as prayed.
19. The applicant shall proceed to file the appeal within a period of 14 days from the date of this ruling, failure to which these orders shall stand vacated.
20. The costs of this motion shall abide the outcome of the intended appeal.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF NOVEMBER, 2025.

F. SICHALE

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR.

