

**IN THE COURT OF  
APPEAL AT  
NAIROBI**

**(CORAM: W. KARANJA, J.A. (IN  
CHAMBERS))**

**CIVIL APPLICATION NO. SUP E014 OF  
2025**

**BETWEEN**

**TOM CHORE ODIARA.....1<sup>ST</sup> APPLICANT  
JECT LIMITED.....2<sup>ND</sup>  
APPLICANT**

**AND**

**FALCON PROPERTIES LTD.....1<sup>ST</sup> RESPONDENT  
CHIEF LAND REGISTRAR.....2<sup>ND</sup>  
RESPONDENT**

*(Being an application for extension of time to file and serve the application for certification to appeal to the Supreme Court against the judgment and Orders of this Court at Nairobi (Karanja, Asike-Makhandia, M’Inoti, JJ.A.) dated 22<sup>nd</sup> August 2025*

*in*

***NRB Civil Appeal No. 356 of 2018)***

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**R U L I N G**

1. The decision of this Court in **Civil Appeal No. 356 of 2018** was delivered on 22<sup>nd</sup> August 2025. By the said judgment, the Court overturned the judgment of the Environment and Land Court (ELC) which was in favour of the 1<sup>st</sup> applicant herein. Being aggrieved by the judgment and decree of the Court, the applicants filed a notice of appeal to the Supreme Court where they intend to challenge the said judgment on grounds, *inter-alia*, that the judgment raises

matters of General Public Interest. According to the applicants, they were not able to get their file on time after the judgment was delivered and they

were late in filing the application for certification which is a *pre-requisite* before they can move to the Supreme Court pursuant to **Article 163(4)(b)** of the **Constitution**. The delay involved was for 3 days. The applicants have, therefore, moved this Court under among others **Rule 4** of this Court's **Rules** seeking enlargement of time to file the said application.

2. The application is not opposed as there is no replying affidavit or submissions from the respondents despite service of the hearing notice and the application itself on the respondents.
3. The power to extend time under **Rule 4** of this Court's **Rules** is an exercise of discretion and the factors to be considered were stated in

**Fakir Mohammed -vs- Joseph Mugambi & 2 others [2005] eKLR**

**(Civil Application No. Nai. 332 of 2004)** where the Court held that;

***“The exercise of this Court’s discretion under Rule 4 has followed a well-beaten path since the stricture of “sufficient reason” was removed by amendment in 1985. As it is unfettered, there is no limit to the number of factors the court would consider so long as they are relevant. The period of delay, the reason for the delay, (possible) the chances of the appeal succeeding if the application is granted, the degree of prejudice to the respondent if the application is granted, the effect of delay on public administration, the importance of compliance with time limits, the resources of the parties, whether the matter***

***raises issues of public importance-are all relevant  
but not exhaustive factor.”***

See also ***Mwangi -vs- Kenya Airways Ltd (2003) KRL 486.***

4. I have considered the application, the applicants' submissions and the law. I am satisfied that a delay of 3 days is not inordinate. I am also persuaded that the explanation given for the delay is plausible. I have also looked at the issues the applicants want to raise in the application for certification and I am convinced that they are not frivolous.
5. For the foregoing reasons, I am satisfied that this application passes muster. I allow it and order that the application or certification be filed and served within 7 days from the date hereof failing which the leave granted will automatically lapse.

**Dated and delivered at Nairobi this 28<sup>th</sup> day of November 2025.**

**W. KARANJA**

.....  
**JUDGE OF APPEAL**

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

**Signed \_**

**DEPUTY**

**REGISTRAR.**