



Mwangale (As the administratrix of the Estate of the Late Andrew Salai Mwangale) v Attorney General (Environment and Land Petition 3'B' of 2023) [2025] KEELC 8627 (KLR) (10 December 2025) (Ruling)

Neutral citation: [2025] KEELC 8627 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT AND LAND PETITION 3'B' OF 2023**

CK NZILI, J

DECEMBER 10, 2025

BETWEEN

CATHERINE ADHIAMBO OLWENY MWANGALE (AS THE ADMINISTRATRIX OF THE ESTATE OF THE LATE ANDREW SALAI MWANGALE) PETITIONER

AND

THE HONOURABLE ATTORNEY GENERAL RESPONDENT

RULING

1. This court is asked to compel the Deputy Registrar to issue a certificate of delay from 11/3/2025.
2. The grounds on the face of the application dated 18/9/2025 and the affidavit thereof, sworn by Allan George Njogu, are that the petition was initially filed at Nairobi but was later transferred to this court, which dismissed it by a ruling dated 5/3/2025, necessitating the filing of a notice of appeal dated 10/3/2025, a letter requesting certified copies of the ruling, order, and the proceedings.
3. The applicant deposes that despite filing the notice of appeal on the E-filing portal, she was not issued a signed copy from the registry, despite its reloading on 4/4/2025.
4. It is deposed that the deputy registrar erroneously indicated that the notice was filed on 4/4/2025, instead of 11/3/2025, thereby indicating that it had been filed out of time. Further, the applicant avers that through correspondence with the Deputy Registrar of 16/4/2025, and clarified that the notice had been filed and sought to be issued with the same. The applicant contends that she paid for the notice on 11/3/2025 and, therefore, should be the date it was lodged. Subsequently, upon learning that typed proceedings were ready, the applicant requested a certificate of delay since the time to file a record of appeal had lapsed.



5. The applicant deposes that the deputy registrar has failed to give reasons for declining to issue the certificate of delay, despite certifying the proceedings ready on 7/8/2025. Copies of the notice of appeal and letter dated 11/3/2025, note from the Deputy Registrar, letter dated 16/4/2024, notice of appeal of 4/4/2025, payment receipt, and the letter dated 23/7/2025 are attached as annexures marked A–G.
6. The respondent opposes the application on the grounds of the opposition dated 24/10/2025. It deposes that no evidence has been tendered that the notice of appeal was filed on the E-portal on 11/3/2025, which process is complete upon payment.
7. It is deposed that the applicant failed to serve the notice of appeal upon the respondent on time or at all, contrary to Rule 79 of the Court of Appeal rules.
8. The respondent deposes that the request for typed proceedings was served on 9/5/2025, which was 60 days after the judgment, contrary to Rule 84 of the Court of Appeal Rules; hence, the application is based on misrepresentations and falsehoods.
9. Through written submissions dated 23/10/2025, the applicant submits that the notice of appeal was filed online on 11/3/2025 and was issued with both reference and receipt numbers. Reliance is placed on Part 4 Section 77 of the Court of Appeal Rules and *Abok James Odera T/A A.J Odera & Associates v John Patrick Machira T/A Machira & Co. Advocates* [2013] eKLR.
10. On issuance of a certificate of delay, the applicant submits that the Deputy Registrar ought to have considered the time taken to type proceedings and issued a certificate of delay as provided under Section 84(1) of the Court of Appeal Rules, since the typing of the proceedings occasioned the 5 months' delay, yet the request was made within the requisite 30-day period. Reliance is placed on *Joreth Ltd v Kigano & Associates* [2002] 1 EA 92, Article 159(2)(b) of *the Constitution*, and *Kilonzo (Suing as the Administrator and Personal Representative of the Estate of Caroline Mwendu Maithya - Deceased) v Wambua* [2025] KEHC 13815 (KLR).
11. The impugned judgment of this court was delivered on 5/3/2025. The applicant swears that she filed a notice of appeal on 11/3/2025 on the e-filing portal. A payment receipt dated 11/3/2025 was also issued, annexed as F.
12. A certificate of delay is a crucial document issued when the delay is justified. See *Apa Insurance Limited v Michael Kinyanjui Muturi* [2016] eKLR. The issue of delay in typing proceedings is real in our judicial system. It has to be attributed to the court and not a party where an application for a certificate of delay is made. A party has to exercise due diligence in pursuit of its cause and show that it was impeded by the slow-turning wheels of the judiciary in obtaining proceedings on time. See *Hassan Nyanje Charo v Khatib Mwashetani and others* [2014] eKLR.
13. The applicant is seeking an order to compel the deputy registrar to issue a certificate of delay. When a request was declined is not clear. A copy of the draft certificate of delay submitted to the deputy registrar has been displayed before this court. The applicant, by a letter dated 23/7/2025, alleges that they were informed that the typed proceedings were ready. The court records and typed proceedings register do not indicate when the applicant formally made the request, paid for it, and was formally informed that the same were ready.
14. A party has to make a formal request and follow up, including visiting the registry to collect the typed proceedings. The time between 11/3/2025 and 7/8/2025 is not clear from the applicant's affidavit, for them to solely apportion the blame on the court registry. He who alleges must prove. The alleged official supply of the proceeding on 7/8/2025.



15. Other than payment of Kshs. 450/=, there is no evidence that Kshs. 1,000/=, for the proceedings, was paid for on 11/3/2025. The applicant had merely undertaken to pay for the same in the request letter. The receipt of payment of Kshs. 1,000/= was issued on 4/4/2025 as per receipt number RA-0710217. Certification of the proceedings was made on 7/8/2025.
16. There appears to have been a lack of communication between the applicant and the registry; otherwise, it is not possible for 12 pages of typed proceedings to have taken 5 months. The Deputy Registrar is directed to issue the certificate of delay for the period attributable to the court.

RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 10TH DAY OF DECEMBER 2025.

In the presence of:

Court Assistant - Dennis

Mwaura for applicant- present

A.G - absent

HON. C.K. NZILI

JUDGE, ELC KITALE.

