



**Global Freight Logistics Limited v Agutu & another (Employment and Labour Relations Appeal E212 of 2023) [2025] KEELRC 3724 (KLR) (9 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3724 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS APPEAL E212 OF 2023**

**DKN MARETE, J  
DECEMBER 9, 2025**

**BETWEEN**

**GLOBAL FREIGHT LOGISTICS LIMITED ..... APPELLANT**

**AND**

**BENARD JUMA AGUTU ..... 1<sup>ST</sup> RESPONDENT**

**MAKYS AUCTIONEERS LIMITED ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. This is an application dated 20th January, 2025 seeking enlargement of time to file a Memorandum of Appeal and consequently deem the Memorandum of Appeal filed herein as properly on record.
2. The Applicant further seeks that this application be heard and determined on priority basis as the Application dated 2nd April, 2024 is scheduled for mention for direction on 18th February, 2025 before this court.
3. The 1st Respondent opposes the application for being frivolous, vexatious and an abuse of process of court on ground that the ruling appealed against was delivered by the trial court on 4th July, 2023 with the Applicant filing a Memorandum of Appeal on 24th October, 2023, a period of three months and twenty days later. This was done without seeking leave of court and in violation of section 79 G of the *Civil Procedure Act* and Rule 17 (1) of the Employment and Labour Relations Court (Procedure) Rules, 2016 providing for a thirty days period for filing such appeals.
4. The 1st Respondent further avers that the Appellant's attempt to explain this inordinate delay by blaming the previous advocate is not plausible or sufficient as the change of advocate occurred around 9th October, 2023 yet not action was taken until January, 2025 in reaction to the Respondent's application dated 2nd April, 2024 that was served onto them on 9th April, 2024. No application for leave to file a notice of appeal out of time was made, or at all.



5. The Applicant filed an application in the trial court and this appeal on 24th October, 2023 but failed to file a memorandum of appeal until after almost two years. This was done by the same advocate who have make this application and therefore they are to blame for the delay.
6. Other issues arising out of this application are;The Applicant filed this case for purposes of convincing the trial court to grant stay of execution which was made conditional upon a deposit of the decretal sum which has not been made todote.The Applicant as failed to put their house in order on filing of the appeal or even filing this out of time for over two years.No satisfactory or reasonable explanation has been made for the delay in making this application for extension of time.This is indolence and should not be rewarded at the expense of the Respondent.The intended appeal is not arguable and has not chances of success this being littered with various lapses of court process at the trial court despite constant agitation and reminder.The issues of illegal proclamation and sale of motor vehicle were considered and determined by the trial court in a ruling of 4th July, 2023 and dismissed for want of merit.That the Respondent stand to suffer prejudice and justice if this application is allowed.
7. The parties filed their written submission dated 31st October, 2025 for the Applicant and 3rd November, instant for the Respondent all reiterating their respective cases on their application.
8. The Application comes out in favour of the Respondent. This is because they have established a case of dalliance and massive neglect on the part of the Applicant in the prosecution of this intended appeal and proceedings at the lower court. There is no demonstration of an arguable appeal with any chances of success bearing in mind the enormous delay in filing of an appeal or even this application by the Applicant.
9. This court also agrees that this application is bedevilled with frivolity and vexation in that the applicant only seems interested in going round circles and excusing their misconduct by blaming extraneous and imaginary factors that are not real or applicable in the circumstances. They should be allowed to meet the price of their indolence.
10. I am therefore incline to dismiss this application with orders that each party bears their costs of the same.

**DELIVERED, DATED AND SIGNED THIS 9<sup>TH</sup> DAY OF DECEMBER 2025.**

**D. K. NJAGI MARETE**

**JUDGE**

Appearances:

Miss Mwangela holding brief for Gitonga instructed by M. M. Gitonga Advocates LLP for the Appellant/  
Applicant.

Mr. Bizimana instructed by Bizimana Associates Advocates for the Respondent.

