

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL & TAX DIVISION - MILIMANI LAW COURTS
MISCELLANEOUS CAUSE NO. E024 OF 2026

IN THE MATTER OF ABSA BANK KENYA PLC
AND
IN THE MATTER OF THE COMPANIES ACT, CAP 486
AND
IN THE MATTER OF A CHARGE IN FAVOUR OF ABSA BANK KENYA PLC
AND
IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME FOR
REGISTRATION OF A CHARGE UNDER SECTION 888 OF THE
COMPANIES ACT, CAP 486

RULING

Introduction

1. Before the Court is the Applicant's Notice of Motion dated 13th January 2026, expressed to be brought under sections 885 and 888 of the Companies Act; sections 1A and 1B of the Civil Procedure Act, and Order 51 Rule 1 of the Civil Procedure Rules.
2. The Applicant, Absa Bank Kenya PLC, seeks extension of time to register a **Debenture dated 11th November 2025** executed between itself and Browns East Africa Plantations PLC.
3. The Motion is supported by the Affidavit of Cecil Kuyo, Advocate, sworn on the same date. He avers that the Applicant prepared and perfected the Debenture securing various financial facilities advanced to the Company. The statutory period for lodging and registering the Debenture lapsed owing to operational and procedural challenges

arising from the new online registration formalities at the Companies Registry, which delayed the registration process.

Analysis and Determination

4. Having considered the application and the affidavit in support thereof, I find that the only issue for determination is whether the application is merited.
5. The applicable statutory scheme is **Sections 885 and 888 of the Companies Act, 2015**. Section 888 provides as follows; -

“888. Rectification of register of charges

- (1) A company or interested person who claims that a failure to register a charge before the deadline for registration, or an omission or misstatement of a particular with respect to any such charge or in a memorandum of satisfaction or release -
 - (a) was accidental or due to inadvertence or to some other reasonable cause; or
 - (b) is not of a nature to prejudice the position of creditors or members of the company, may apply to the Court for an order under subsection (2).
- (2) If, on the hearing of an application made under subsection (1), the Court is satisfied-
 - (a) that the failure, or the omission or misstatement-
 - (i) was accidental or due to inadvertence or to some other reasonable cause; or
 - (ii) is not of a nature to prejudice the position of creditors or members of the company; or
 - (b) that on other grounds it is just and equitable to grant relief, the Court may, subject to such conditions (if any)

as it considers fair and reasonable, order the deadline for registration to be extended, or the omission or misstatement to be corrected.”

6. The statutory scheme requires registration of registrable charges within the prescribed time, failing which the instrument is void against the liquidator and any creditor as regards the security, without affecting the underlying debt; however, the Court is however empowered to extend time for registration on such terms as it deems just, upon being satisfied as to the reasons for delay and the absence of prejudice to third parties.
7. On jurisdiction, the motion is competently brought. The Court’s discretion to enlarge time for registration is well recognized where sufficient cause is shown, and no injustice is occasioned to third parties. The present motion seeks a modest extension of thirty (30) days from the date of the Court’s order, to enable lodgment and registration of the Debenture.
8. On the merits, the Applicant attributes the delay to operational and procedural changes at the Companies Registry attendant to the new online system. The Supporting Affidavit explains that despite preparation and execution of the instrument, registration was not perfected within time due to those extraneous circumstances, and not due to culpable indolence by the Applicant.
9. **In In re Application for Extension of Time for Registration of a Charge by Silverspread Hardwares Ltd in favour of Bank of Baroda (Kenya) Ltd [2021] KEELC 2015 (KLR)**, it was held that the Court may extend time under Sections 885–888 of the Companies Act where delay results from inadvertence of counsel or administrative challenges and no prejudice is shown to third parties.

10. On the material before me, I am satisfied that the explanation for the delay is plausible and sufficient, particularly in the context of systemic changes at the Registry that can impede timely filings. I also note that the underlying debt remains unaffected; what is at stake is the perfection of the security.
11. Further, there is no evidence of prejudice to third parties, and the equities favour preservation of the parties' bargain by facilitating registration out of time. The Court's intervention in such circumstances accords with the overriding objective to facilitate the just, expeditious, and affordable resolution of disputes.
12. In the premises, the justice of the case militates in favour of enlarging time on terms that will expedite perfection and minimize any residual risk to third parties.
13. Accordingly, the Notice of Motion dated 13 January 2026 is allowed on the following terms:
 - i. Time for registration of the Debenture dated 11th November 2025 is hereby extended by thirty (30) days from the date of this Ruling.
 - ii. The Applicant shall lodge the Debenture for registration forthwith and in any event within the enlarged period, and shall serve a copy of this order on the Registrar of Companies within seven (7) days.
 - iii. There shall be no order as to costs, the motion having been necessitated by procedural circumstances.
14. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 16TH JANUARY
2026.**

A handwritten signature in blue ink, appearing to read 'Moses Ado', is written over a rectangular stamp area.

HON. JUSTICE MOSES ADO

JUDGE

ORIGINAL FILE COPY