



**Adongo & another v Amuze & another (Civil Application  
E081 of 2025) [2026] KECA 21 (KLR) (23 January 2026) (Ruling)**

Neutral citation: [2026] KECA 21 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT ELDORET  
CIVIL APPLICATION E081 OF 2025  
JM MATIVO, JA  
JANUARY 23, 2026**

**BETWEEN**

**BEN MUTENYO ADONGO ..... 1<sup>ST</sup> APPLICANT**

**JACKSON ANGAINE ..... 2<sup>ND</sup> APPLICANT**

**AND**

**ERICK KIMOKOTI AMUZE ..... 1<sup>ST</sup> RESPONDENT**

**RACHEAL NECHESA KERE ..... 2<sup>ND</sup> RESPONDENT**

*(Being an application for extension of time to file and serve a notice of appeal and extension to file a record of appeal out of time from the judgment of the Environment and Land Court at Kitale (C. K. Nzili, J.) dated 8th October, 2025 in ELC No. E003 of 2021)*

**RULING**

1. Ben Mutenyo Adongo and Jackson Angaine (the applicants) have approached this court by way of Notice of Motion dated 14<sup>th</sup> November 2025 seeking two substantive reliefs namely:
  - a. the time limited for the applicant to file and serve notice of appeal be enlarged or extended to allow filing and service within time as the Court may deem fit.
  - b. this Court be pleased to extend time and grant leave to the applicants to appeal out of time against the judgement delivered by Hon. Justice C.K Nzili on 8<sup>th</sup> day of October 2025 in Kitale ELC No. E003 of 2021.
2. The application is premised on Sections 1 A, 1 B, 3A of the Civil Procedure Act, Sections 3A, 3B & 7 of Appellate Jurisdiction Act and Rule 4, 76 & 78 of Court of Appeal Rules 2022 and Article 159 (2) (d) of the Constitution. It is supported by the grounds enumerated on its body and the supporting affidavit sworn on 14<sup>th</sup> November 2025 by both applicants. Briefly, the grounds in support of the application



are that: (a) the applicants being aggrieved with the Judgment dated 8<sup>th</sup> October 2025 instructed their current advocate to come on record for them; (b) vide letter dated 24<sup>th</sup> October 2025, their advocate requested for certified copies of the proceedings and judgment for the purpose of appealing; (c) by the time a notice of appeal was filed the stipulated time for lodging a notice of appeal had lapsed; (d) the delay in filing the appeal on time was not deliberate since the applicants followed up with the matter through their advocate; (e) the applicants will suffer prejudice if their application is not allowed.

3. The respondents filed a replying affidavit sworn on 20<sup>th</sup> January 2026 by the 1<sup>st</sup> respondent maintaining that the Judgment in Kitale ELC No. E003 of 2021 sought to be appealed against has already been implemented, therefore the intended appeal has been overtaken by events.
4. On record is a notice of withdrawal dated 20<sup>th</sup> January 2026 filed by the applicants seeking to have the instant application withdrawn. In the circumstances, the application dated 14<sup>th</sup> November 2025 is hereby marked as withdrawn with no orders as to costs.

**DATED AND DELIVERED AT ELDORET THIS 23<sup>RD</sup> DAY OF JANUARY, 2026.**

**J. MATIVO**

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**JUDGE OF APPEAL**

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

Signed.

**DEPUTY REGISTRAR.**

