



REPUBLIC OF KENYA



KENYA LAW
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**Koka Properties Limited & another (Miscellaneous Civil Application
27 of 2026) [2026] KEHC 398 (KLR) (Civ) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 398 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL**

MISCELLANEOUS CIVIL APPLICATION 27 OF 2026

BK NJOROGE, J

JANUARY 22, 2026

IN THE MATTER OF

KOKA PROPERTIES LIMITED 1ST APPLICANT

STANDARD CHARTERED BANK KENYA LIMITED 2ND APPLICANT

RULING

1. This Ruling relates to the Applicant's *ex parte* Notice of Motion dated 15th January, 2026 brought pursuant to Sections 878 and 885 of the *Companies Act*, Cap 486 of the Laws of Kenya, as well as Order 51 Rule 1 of the Civil Procedure Rules, Cap. 21 of the Laws of Kenya. Through the said application, the Applicants have moved this Court seeking the following reliefs:
 - a. Spent.
 - b. This court be pleased to extend the time for registration of the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 with the Registrar of Companies.
 - c. Costs of this application be provided for.
2. This Application was supported by the sworn affidavit of Christine Adhiambo Onyango, an Advocate of the High Court of Kenya, dated the same day as the Application. Ms. Onyango practices in the firm of M/s Owiti, Otieno & Ragot Advocates, who have conduct of this matter on behalf of the Applicants.

Issues for Determination

3. The Court has carefully considered the Motion, the statutory provisions cited, the Supporting Affidavit, and the annexures thereto. Upon such consideration, the Court is of the view that only one issue arises for determination:



- a. Whether leave should be granted to the Applicants to register the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 at the Companies Registry out of time.

Analysis

4. Pursuant to Section 884 of the *Companies Act*, the Registrar of Companies is mandated to maintain a register of charges, register such charges, issue certificates of registration thereof, and authenticate the same with the Registrar's Official Seal. Under Section 885 of the Act, the statutory timeline for registration of a charge is thirty (30) days from the date of its creation. In the event of non-compliance, Section 888(1) of the *Companies Act* empowers any interested party or the company itself to apply to the Court for an extension of the prescribed period for registration.
5. Further, when considering an extension under Section 888, the Court examines whether the delay was accidental or reasonably explained, whether it prejudiced creditors or members, whether granting the extension is just and fair, and whether the omission is rectifiable. This requirement that such a charge must be registered with the Registrar of Companies within thirty (30) days from the date of its creation is statutory and not discretionary. It is evident that the parties have complied with all the necessary legal requirements in the creation of the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025, save for the registration, which was delayed due to reasons sufficiently explained and which were beyond their control.
6. In her affidavit, Counsel for the Applicants deponed that by letter dated 12th September, 2025, the 2nd Applicants instructed the firm of M/s Owiti, Otieno & Ragot Advocates to register a Deed of Variation of Charge, Further Charge and 2d Further Charge over the property known as Office Numbers 20,21,22,23,24,25,26,27,28,29,30,31,32 & 35 Situated On Third Floor & Eight (8) Parking Spaces On Land Reference Number 209/18869 (Original Number 209/406) NAIROBI which instructions the said law firm took up.
7. That since the properties are sectional properties, their Registration had to be done physically at the Lands Registry and not on the ArdhiSasa Platform. The Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 and the stamp duty payment receipt was submitted to the Nairobi Central Lands Registry on 5th December, 2025 for franking and registration of the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 booked under booking number 253. There were delays in registration which was completed on 19th December, 2025. That having successfully registered the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 at the Lands Registry, it was time to have the same registered at the Company's Registry. The Advocates contacted the Directors of the 1st Applicant's company in order to for them to furnish their eCitizen credentials for logging onto the Business Registration Service (BRS) Portal. However, the said Directors had already proceeded on their December recess. The credentials sought were issued on 12th January, 2026 by which time the time stipulated for registration of the instruments at the Companies Registry had lapsed.
8. Counsel averred that, while they were able to obtain duly registered security documents from the Lands Registry, they were unable to register the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 at the Companies Registry as the statutory period for such registration had already lapsed during the period taken to assess, stamp, and register the Deeds at the Lands Office. Pursuant to Section 885 of the *Companies Act*, No. 17 of 2015, the Company was required to register the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 with the Registrar of Companies within thirty (30) days from the date of its



creation. The delay in presenting the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 for registration at the Companies Registry was occasioned by delays in registration, which delay was unintentional and beyond the control of both the Applicant and the Chargor.

9. The omission in the present case pertains solely to the failure to register the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 at the Companies Registry within the statutory period prescribed under Section 885 of the *Companies Act*. Notwithstanding this procedural lapse, the Deed was duly executed, assessed for stamp duty, duly franked, and registered at the Lands Registry. The omission is therefore procedural in nature and, in the Court's view, clearly rectifiable. While it is acknowledged that non-registration at the Companies Registry may affect the enforceability of the Deed of variation of Charge as against third parties, the failure to comply with the prescribed timeline was neither willful nor negligent. In the circumstances, the delay should not defeat an otherwise valid security instrument. This approach aligns with the provisions of Article 159(2)(d) of *the Constitution*, which enjoins courts to administer justice without undue regard to procedural technicalities, and with the general principles of the *Companies Act*, which favour the promotion of substantive rights and commercial certainty.
10. There is no evidence on record to suggest that the delay in registration has occasioned any prejudice to the company's creditors or members. On the contrary, the regularisation of the registration will enhance the protection of the lender's interest and promote commercial transparency. The affidavit and annexures confirm that all substantive steps in the creation of the Deed of Variation of Charge, execution, stamping, and registration at the Lands Registry, were duly undertaken in a timely manner, save for the Companies Registry filing. Accordingly, the Court is satisfied that the Applicants have provided a reasonable explanation for the delay, that the omission is capable of remedy, and that no prejudice has been occasioned to any party. The Court therefore finds it just and equitable to exercise its discretion under Section 888(1) of the *Companies Act*. In the result, the prayers sought in the Notice of Motion dated 15th January, 2026 are hereby granted.

Determination

11. This Court hereby extends the time for registration of the Deed of Variation of Charge, Further Charge and 2nd Further Charge dated 3rd December 2025 with the Registrar of Companies by a period of thirty (30) days from the date of this Ruling.
12. Given the nature of the application, there shall be no order as to costs.
13. It is so ordered.
14. The file is hereby marked as closed.

DATED, SIGNED AND DELIVERED AT MILIMANI THIS 22ND DAY OF JANUARY, 2026.

NJOROGE BENJAMIN K.

JUDGE

In the presence of;

Miss Onyango for the Applicants.

Peter Wabwire - Court Assistant.

