



REPUBLIC OF KENYA



KENYA LAW
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**Chemical Partners Kenya Limited v Commissioner of Customs and Boarder Control
(Civil Application E341 of 2025) [2026] KECA 201 (KLR) (6 February 2026) (Ruling)**

Neutral citation: [2026] KECA 201 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E341 OF 2025
W KARANJA, JA
FEBRUARY 6, 2026**

BETWEEN

CHEMICAL PARTNERS KENYA LIMITED APPLICANT

AND

COMMISSIONER OF CUSTOMS AND BOARDER CONTROL . RESPONDENT

(Being an application for extension of time for filing of the notice of appeal against the entire judgment and decree and all consequential orders of the High Court of Kenya at Nairobi (A.M. Muteti, J.) dated 12th May 2025 in HCCOMMCTA No. E013 of 2021)

RULING

1. The applicant has moved this Court by way of a notice of motion dated 29th May 2025, seeking an order for extension of time within which to file the notice of appeal and further, that the Notice of appeal dated 16th May 2025 be deemed as duly filed and served. The application is premised on some 22 grounds on its face and supported by an affidavit sworn by Liz Gitau, the appellant's counsel on 29th May 2025.
2. The gist of the said grounds and depositions by learned counsel is that being dissatisfied with the judgment of Judge Alexander Muasya Muteti delivered on 12th May 2025, the applicant decided to file an appeal. According to Ms. Gitau, learned counsel, the notice of appeal was filed timeously on 16th May 2025 through the Court's electronic filing system. Counsel deposes that she forgot to make payment for the filing fees on time and only did so on 27th May 2025. She was issued with a receipt for the payment.
3. Under the Rules of this Court, the date of filing is the date that payment is made. The applicant's notice of appeal was out of time by about one day, hence the application for extension of time. The delay involved was for only one day.



4. The application was served on the respondent, but there was no replying affidavit filed. The submissions by counsel for the applicant filed on 19th August 2025 were also served on the respondent but there was no response.
5. Given that the delay involved was minimal, counsel for the respondent could have opted not to oppose the application. The applicant is therefore not opposed.
6. I have considered the merits of the application before me.

Whether or not to extend time is at the discretion of the court. The Court is, nonetheless, enjoined to exercise that discretion in a judicial manner and not capriciously. The guidelines to be followed when considering the application are settled. See: *Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 7 others* [2014] eKLR. Among other considerations, the length of the delay must not be inordinate; the explanation for the delay must be plausible and the applicant must also demonstrate that the respondent will not suffer prejudice if the order sought is granted.

7. I acknowledge the fact that the delay involved was negligible; the reasons given for the late filing are plausible and having been served with the notice of appeal and the letter bespeaking proceedings already, the respondent will not be prejudiced if the application is allowed.
8. For the above reasons, I find the application before me with merit.

I allow it and grant the orders sought. I make no order as to costs as the application is not opposed.

DATED AND DELIVERED AT NAIROBI THIS 6TH DAY OF FEBRUARY 2026.

W. KARANJA

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.

