

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT BUSIA**  
**MISCELLANEOUS APPLICATION NO. E080 OF 2025**

**BASHY AFRICAN CREDIT LIMITED.....**  
**APPLICANT**

**VERSUS**

**CATHERINE MACHUMA WASWA.....1<sup>ST</sup> RESPONDENT**

**SAMUEL OLUOCH OTIENO.....2<sup>ND</sup>**

**RESPONDENT**

**DAVID OLUOCH OTHACH.....3<sup>RD</sup> RESPONDENT**

**CAREBASE INVESTMENT**

**AUCTIONEERS.....4<sup>TH</sup> RESPONDENT**

**RULING**

1. The Motion, dated 2<sup>nd</sup> October 2025, seeks leave to appeal out of time and for stay of execution. Judgment was delivered on 30<sup>th</sup> August 2024. The application came on 2<sup>nd</sup> October 2025, roughly 1 year and 1 month thereafter.
2. The explanation given, for the delay, is that the Advocates for the applicant failed to respond to his enquiries. I have seen no evidence of that. No call logs. No letters or other correspondence. No explanation why applicant, in 1 year, did not visit the court registry, to peruse the court file.
3. The matter belongs to the party, not the Advocates handling it, and where there is no communication, for

a while, from the Advocates, the party ought to take steps. Visit the Advocates, at their chambers. Write to them. Visit the court registry, to peruse the court file.

4. The explanation given, for the delay is not plausible. The Motion, dated 2<sup>nd</sup> October 2025, is without merit. I hereby dismiss it. The 1<sup>st</sup> respondent shall have the costs.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN  
CHAMBERS, AT BUSIA, ON THIS 9<sup>TH</sup> DAY OF  
FEBRUARY 2026.**

**WM MUSYOKA  
JUDGE**

**Mr. Arthur Etyang, Court Assistant.**

**Advocates**

**Mr. Thuku, instructed by SN Thuku & Associates,  
Advocate for the applicant.**

**Ms. Nabulindo, instructed by DK Nabulindo & Company,  
Advocates for the 1<sup>st</sup> respondent.**