



**General of Salvation Army Registered Trustees (Registered Trustees)
v Muranga County Government & 4 others (Civil Application
E349 of 2025) [2026] KECA 212 (KLR) (6 February 2026) (Ruling)**

Neutral citation: [2026] KECA 212 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E349 OF 2025
W KARANJA, JA
FEBRUARY 6, 2026**

BETWEEN

**THE GENERAL OF SALVATION ARMY REGISTERED TRUSTEES
(REGISTERED TRUSTEES) APPLICANT**

AND

**MURANGA COUNTY GOVERNMENT 1ST RESPONDENT
CHIEF OFFICER, LAND PHYSICAL PLANNING AND URBAN
DEVELOPMENT, MURANG'A COUNTY 2ND RESPONDENT
NATIONAL LAND COMMISSION 3RD RESPONDENT
THE CHIEF LAND REGISTRAR 4TH RESPONDENT
THE ATTORNEY GENERAL 5TH RESPONDENT**

(Being an application for extension of time to serve the notice of appeal and leave to file and serve the record of appeal out of time from the ruling of the Environment and Land Court Thika (J.A. Mogeni, J.) dated 5th March 2025 in ELC Petition No. E016 of 2024)

RULING

1. By a notice of motion dated 9th June 2025. the applicant, the General of the Salvation Army Registered Trustees, has moved the Court through the firm of Kwew Advocates for two orders in the main. In prayer No. 2, the applicant seeks extension of time to serve the notice of appeal on the respondents out of time. In prayer No. 3, the applicant seeks extension of time to file and serve the record of appeal against the ruling of the Environment and Land Court (ELC) Thika, in ELC Petition No. E016 of 2024 delivered on 5th March 2025.



2. The application is premised on several grounds on its face and is supported by the affidavit of Lt. Col. David Musyoki sworn on 9th June 2025. The gist of the said grounds and depositions is that, the notice of appeal was filed on time, but the same was not served on the respondents within the time prescribed by the Court of Appeal Rules because a clerk in learned counsel's office placed it in a drawer and it was forgotten. It is also deposed that learned counsel for the applicant fell ill and was admitted in hospital sometime in April and returned to the office sometime in May, hence the delay. The applicant urges that the delay is not inordinate, that the explanation given is plausible, and that the respondents will not be prejudiced if the application is allowed. They also say that they have an appeal with high chances of success and that they might be evicted from the suit property in the event that they are not heard.
3. The application is opposed by the 2nd respondent through an affidavit sworn by James Gatuma, a County Executive Committee Member of the 2nd respondent on 29th August 2025. Mr. Gatuma deposes that they were not served with the notice of appeal and there was no communication from the applicant's counsel until 23rd May 2025 when they wrote enquiring about settlement of their costs.
4. The deponent goes on to state that the reasons given for the delay of two months and 18 days has not been sufficiently explained as counsel who is said to have been indisposed was not admitted in hospital until April, after time to serve the notice of appeal had already expired. He urges this Court to dismiss the application with costs.
5. Both parties filed submissions which I have considered along with the rival affidavits filed by the parties and the law. The principles that guide the Court on whether to grant extension of time or not are well settled. The power to extend time under Rule 4 of this Court's Rules is an exercise of discretion and the factors to be considered were stated in *Fakir Mohammed -vs- Joseph Mugambi & 2 others* [2005] eKLR (Civil Application No. Nai. 332 of 2004) where the Court held that;

“The exercise of this Court's discretion under Rule 4 has followed a well-beaten path since the stricture of “sufficient reason” was removed by amendment in 1985. As it is unfettered, there is no limit to the number of factors the court would consider so long as they are relevant. The period of delay, the reason for the delay, (possible) the chances of the appeal succeeding if the application is granted, the degree of prejudice to the respondent if the application is granted, the effect of delay on public administration, the importance of compliance with time limits, the resources of the parties, whether the matter raises issues of public importance-are all relevant but not exhaustive factor.”

See also *Mwangi -vs- Kenya Airways Ltd* (2003) KRL 486.

6. Guided by the above principles, on prayer No. 2, I note that the notice of appeal was filed on time and the problem was with service on the respondents. As calculated by the 2nd respondent, the delay was 2 months and 18 days. I am prepared to exercise my discretion in favour of the applicant in regard to that prayer as the time involved is not inordinate.
7. Accordingly, I grant leave to the applicant to serve the notice of appeal within 7 days from the date hereof.
8. Having allowed that prayer, the rest of the timelines pertaining to the filing of the record of appeal as prescribed by the Court of Appeal Rules should be complied with, failing which the leave so granted will stand vacated.
9. There will be no order as to costs of the application.

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



W. KARANJA

..... **JUDGE OF APPEAL**

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

Signed

DEPUTY REGISTRAR.

