



**Kerongo & another v Ogembo Tea Factory & 9 others (Civil Application E169 of 2025) [2026] KECA 210 (KLR) (5 February 2026) (Ruling)**

Neutral citation: [2026] KECA 210 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CIVIL APPLICATION E169 OF 2025  
LK KIMARU, JA  
FEBRUARY 5, 2026**

**BETWEEN**

**THOMSON KERONGO ..... 1<sup>ST</sup> APPLICANT**

**RIGENA HUMAN RIGHTS WATCHDOG ORGANIZATION .. 2<sup>ND</sup> APPLICANT**

**AND**

**OGEMBO TEA FACTORY ..... 1<sup>ST</sup> RESPONDENT**

**FACTORY UNIT MANAGER, OGEMBO TEA FACTORY .... 2<sup>ND</sup> RESPONDENT**

**THE BOARD OF DIRECTORS, OGEMBO TEA FACTORY ... 3<sup>RD</sup> RESPONDENT**

**NYAMACHE TEA FACTORY ..... 4<sup>TH</sup> RESPONDENT**

**FACTORY UNIT MANAGER, NYAMACHE TEA FACTORY 5<sup>TH</sup> RESPONDENT**

**THE BOARD OF DIRECTORS, NYAMACHE TEA FACTORY .... 6<sup>TH</sup> RESPONDENT**

**KIAMOKAMA TEA FACTORY ..... 7<sup>TH</sup> RESPONDENT**

**FACTORY UNIT MANGER, KIAMOKAMA TEA FACTORY .... 8<sup>TH</sup> RESPONDENT**

**THEKENYA TEA DEVELOPMENT AGENCY (KTDA) ..... 9<sup>TH</sup> RESPONDENT**

**THE BOARD OF DIRECTORS, KIAMOKAMA TEA FACTORY .... 10<sup>TH</sup> RESPONDENT**

*(Being an application for extension of time to lodge the notice of appeal out of time from the Ruling of the High Court of Kenya at Kisii (T. A. Odera, J) dated 2nd July, 2025. in HCCHRPET No. E016 of 2024)*



## RULING

1. The applicants moved the Court by notice of motion substantially under Rule 4 of the Court of Appeal Rules seeking to be granted extension of time to appeal out of time. The applicants were aggrieved by the Ruling rendered by the High Court on 2<sup>nd</sup> July, 2025. They filed a notice of appeal indicating their desire to appeal against the said decision on 18<sup>th</sup> July, 2025. This was two (2) days beyond the fourteen (14) days period provided by the Rules. The applicants explain the reason for delay to be; the applicants, who were acting in person, could not file the notice of appeal in time because they were informed by the Registry that the said notice of appeal could not be received as the Court file could not, at the time, be traced. The applicants states that thy were able to file the notice of appeal two days later when the Court file was finally traced. The applicants insist that the period of delay of two days was excusable and not inordinate. In any event, the respondents would not suffer prejudice if the application is granted. The application is supported by the annexed affidavit of Thomas Kerongo, the 1<sup>st</sup> applicant.
2. Although the respondents were served (there is an affidavit of service on record) they did not file a replying affidavit in opposition to the application. The application is therefore unopposed.
3. For this Court to grant the application sought by the applicants, it is required to consider the reasons for delay, the length of delay, the arguability of the intended appeal and whether the respondents will suffer any prejudice. In determining the application, this Court will be exercise judicial discretion (See Fakir Mohamed v. Joseph Mugambi & others [2005] eKLR.)
4. In the present application, this Court is satisfied by the explanation given by the applicants for the delay in lodging the notice of appeal in time. They were prevented from lodging the notice of appeal in time due to the unavailability of the Superior Court’s file which delayed the receipt of the notice of appeal by the Deputy Registrar of the trial Court. The period of delay of two days is excusable. It is not inordinate. The respondents will not suffer any prejudice.
5. The application has merit. It is hereby allowed. The applicants are granted extension of time to file the notice of appeal out of time. The said notice of appeal shall be filed and served within fourteen (14) days of today’s date. The record of appeal shall be filed and served within forty five (45) days of today’s date. There shall be no orders as to costs.

**DATED AND DELIVERED AT KISUMU THIS 5<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**L. KIMARU**

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**JUDGE OF APPEAL**

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

Signed

**DEPUTY REGISTRAR**

