

**IN THE COURT OF
APPEAL AT NAIROBI**

(CORAM: L.M. NDOLO, JA (IN CHAMBERS))

CIVIL APPEAL (APPLICATION) NO. E703 OF
2024

BETWEEN

STEPHEN NTHENGE MUSEMBI.....APPLICANT

AND

INTRASPEED ARCPRO KENYA LIMITED.....RESPONDENT

*(Being an application for extension of time to file a
supplementary record of appeal)*

RULING

1. This ruling flows from the notice of motion dated 28th July 2025, by which the applicant seeks extension of time to file a supplementary record of appeal, and admission of the record as duly filed.
2. The motion is founded on the grounds that; the applicant had filed his record of appeal together with a certificate of delay, but without a decree. The delay is assigned to failure by the superior court to avail a certified copy of the judgment and decree in time. According to the applicant, the decree was extracted sometime in May 2025.
3. The application is unopposed. More importantly, this Court has now settled that the absence of a decree from the record

of appeal is not a fatal omission. In **Emmanuel Ngade vs.**

Kitheka Mutisya [2017] eKLR it was held that a record of appeal is competent notwithstanding the fact that a formal decree has not been included in the record.

4. Be that as it may, and because the delay in filing the supplementary record of appeal has been explained, I will invoke **rule 4** of the Court of Appeal Rules which provides as follows:

The Court may, on such terms as may be just, by order, extend the time limited by these Rules, or by any decision of the Court or of a superior court, for doing of any act authorized or required by these Rules, whether before or after the doing of the act, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.

5. Ultimately, the application is allowed and the supplementary record of appeal dated 28th July 2025, is admitted as duly filed, subject to payment of applicable court fees.
6. The costs of the application will be in the appeal.

Dated and delivered at Nairobi this 6th day of March, 2026.

L.M. NDOLO

.....
JUDGE OF APPEAL

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

Signed
DEPUTY REGISTRAR