

**IN THE COURT OF
APPEAL AT NAIROBI**

(CORAM: ONGAYA, JA. (IN CHAMBERS))

CIVIL APPLICATION NO. NAI E671 OF

2025 BETWEEN

TOLUWALASE AMONDI.....APPLICANT

AND

**THE COMMISSION ON
ADMINISTRATION OF JUSTICE.....1ST RESPONDENT
THE COMMISSIONER FOR
CO-OPERATIVE DEVELOPMENT.....2ND
RESPONDENT CHIEF EXECUTIVE OFFICER, SACCO
SOCIETIES REGULATORY AUTHORITY.....3RD RESPONDENT
THE SACCO SOCIETIES
REGULATORY AUTHORITY.....4TH RESPONDENT
MANAGEMENT BOARD, JACHIN
REGULATED NWDT SACCO SOCIETY..... 5TH
RESPONDENT SUPERVISORY COMMITTEE, JACHIN
REGULATED NWDT SACCO SOCIETY.....6TH
RESPONDENT EXTERNAL AUDITOR, JACHIN
REGULATED NWDT SACCO SOCIETY.....7TH**

RESPONDENT AND

**JACHIN REGULATED NWDT
SACCO SOCIETY.....1ST INTERESTED PARTY
CHAIRMAN OF JACHIN REGULATED
NWDT SACCO SOCIETY.....2ND INTERESTED PARTY
VICE CHAIRMAN OF JACHIN REGULATED
NWDT SACCO SOCIETY.....3RD INTERESTED PARTY
TREASURER OF JACHIN REGULATED
NWDT SACCO SOCIETY.....4TH INTERESTED PARTY
SECRETARY OF JACHIN REGULATED
NWDT SACCO SOCIETY.....5TH INTERESTED PARTY
CHIEF EXECUTIVE OFFICER OF JACHIN
REGULATED NWDT SACCO SOCIETY...6TH INTERESTED**

PARTY

**DEPUTY REGISTRAR OF HIGH COURT,
JUDICIAL REVIEW, NAIROBI.....7TH INTERESTED PARTY**

(Being an application for extension of time to file the Memorandum of Appeal and Record of Appeal out of time, from the Orders and Ruling of the High Court of Kenya at Nairobi (R.E. Aburili, J.) delivered on 14th May, 2025

in

***HCJR/MISC/E045 of
2025)***

R U L I N G

1. The applicant filed the notice of motion dated 31st October 2025. The applicant who is in person seeks orders for summons and joinder of the 7th interested party to issue to the stated Deputy Registrar of the superior court and for his appearance and production of the complete, accurate, readable and valid copies of the typed and certified two superior court's ruling, hearing and cross-examination notes of the Judge; extension of time accepting the applicant's notice of appeal which was lodged on time on 23.05.2025 and extends more time to file the Memorandum of Appeal and Record of Appeal; and, any further directions and orders, in the interest of justice, including awarding the appellant, costs of the application and replacement of the accurate, readable

and valid two High Court

proceedings, Ruling and other statutory documents.

2. The application is supported by the grounds set out therein and the applicant's affidavit sworn on 31st October 2025 and the exhibits thereto. The applicant describes himself as a confirmed member and having shareholding rights with JACHIN Regulated NWDT Sacco Society since December 2016. He further states that the Court has the jurisdiction and authority to grant the orders sought in the interest of justice.
3. The 1st respondent filed a replying affidavit sworn on 18th February 2026 by Daniel Mwangi Karomo. The 1st respondent urged as follows:
 - a) *The application is incurably defective for ambiguity and for improperly conflating distinct reliefs, namely enlargement of time under Rule 4, and stay of execution under Rule 5(2) (b) of the Court of Appeal Rules, 2022. This thereby renders the application incompetent and liable to dismissal at the outset.*
 - b) *Whereas an application for enlargement of time under Rule 4 is heard and determined by a single Judge pursuant to Rule 55(1) of the Court of Appeal Rules, an application for stay of execution or injunction under Rule 5(2) (b) is heard and determined by a full bench of the Court as provided under Rule 55(2) (b) of the said Rules.*
 - c) *The High Court struck out the applicant's Judicial*

Review proceedings for want of jurisdiction and failure to exhaust statutory remedies, and therefore, the intended appeal stands no chance of success.

4. The 3rd and 4th respondents filed a replying affidavit sworn on 11th February 2026 by David Sandagi. They stated that the instant application dated 31.10.2025 is defective and should be dismissed. The said application bears an omnibus of prayers, including suspension of time, suspension of sentence, injunction, stay of execution, and stay of proceedings. That applications under **Rules 4** and **5(2)(b)** of this Court's Rules are governed by distinct principles, posing difficulty in the concurrent application of both rules in one instance. That the applicant has not laid a cogent basis why this Court should extend time within which he should file a Record of Appeal
5. The applicant filed submissions dated 16th February 2026. No submissions were filed for the respondents and interested parties.
6. The matter was listed on 26.02.2026 before me as a single judge matter for chamber consideration upon submissions and in absence of the parties or their advocates. The applicant filed the submissions dated 05.02.2026 but the other parties did not file submissions.

7. I have considered the material on record. It appears that the applicant's main prayer is for extension of time to file the memorandum of appeal and the record of appeal out of time on account that the record of the superior court as provided is not accurate or readable.
8. The applicant has asserted that the notice of appeal was filed and lodged on time. All he is seeking is provision of the legible and accurate proceedings and ruling of the superior court subject of the instant appeal. I have perused the ruling delivered on 14.05.2025 by the superior court as exhibited on the applicant's supporting affidavit and it is indeed faded in some paragraphs such as 4, 5, 9, 12, 15, 18, and 19, and in the title with respect to listing of some of the interested parties. While the complaint appears administrative as relates to proper printout of the documents together with the accuracy thereof, the applicant has established a valid reason for the delay in filing the memorandum and record of appeal. The reason has not been rebutted at all.
9. The superior court's ruling was delivered on 14.05.2025. Under **Rule 84** of the Court of Appeal Rules an appeal is instituted in an appropriate registry within sixty days after the notice of appeal is lodged - which in the instant application was lodged on 23.05.2025. It is therefore apparent that the

sixty days have

lapsed and the applicant has established a case for extension of time for filing the memorandum and record of appeal. I have considered the volume of the proceedings in the superior court which are apparently available and it should be possible to provide the applicant with legible and accurate typed and certified ruling and proceedings forthwith. In that view the memorandum and record of appeal should be filed within thirty (30) days from today.

10. While the applicant invoked both Rules 4 on extension of time and 5(2)(b) on stay of execution, injunction or stay of proceedings as per the title of the application, there was no actual prayer for injunction or stay order as envisaged in Rule 5(2)(b). However, as urged in the replying affidavits, the prayer for joinder was misconceived or ambiguous as would be superfluous upon determination of the instant application.
11. The issue raised in the replying affidavit about whether the proposed appeal would be arguable is important but largely peripheral to the otherwise merits of the instant application. It is sufficient that the applicant says he is aggrieved with the ruling and desires to appeal upon grounds he considers to be arguable upon variations to the lower court's decree and findings as per the superior court's judgment in issue. Further,

the applicant has shown that in the intervening period
from

delivery of the superior court's ruling until filing of the instant application dated 31.10.2025, he continued to communicate with the superior court's registry about his concerns and which have not been addressed so far. Thus, it cannot be said that in the circumstances, the applicant filed the application after unreasonable delay. In conclusion, the application dated 31.10.2025 is hereby determined with orders as follows:

- 1) The applicant is hereby granted leave and time extended to file the memorandum and record of appeal within thirty (30) days from the date of this ruling.**
- 2) The costs of the application to abide in the outcome of the intended appeal.**

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

B. ONGAYA

.....
JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.