

**IN THE COURT OF
APPEAL AT
KISUMU
(CORAM: KIMARU, JA (IN CHAMBERS))
CIVIL APPEAL (APPLICATION) NO. E048 OF
2026**

BETWEE

**N KENYA COUNTY GOVERNMENT
OF
WORKERS UNION.....APPLICANT**

AND

**COUNTY GOVERNMENT OF VIHIGA.....1ST
RESPONDENT CHIEF OFFICER FINANCE,
COUNTY GOVERNMENT OF VIHIGA.....2ND
RESPONDENT COUNTY EXECUTIVE COMMITTEE MEMBER
FOR
FINANCE, COUNTY GOVERNMENT OF VIHIGA....3RD
RESPONDENT
COUNTY SECRETARY,
COUNTY GOVERNMENT OF VIHIGA.....4TH
RESPONDENT THE GOVERNOR,
COUNTY GOVERNMENT OF VIHIGA.....5TH
RESPONDENT**

(Being an application for extension of time to file and serve the record of appeal out of time from the Ruling of the Employment and Labour Relations Court of Kenya at Kakamega (D. Nderitu, J) dated 26th September, 2025

**in
ELRC. No. E040 of**

2024)

RULING

1. The applicant was aggrieved by the Ruling of the trial Court that

was delivered on 26th September, 2025. They filed the notice

of appeal indicating their intention to challenge the said

Ruling on

appeal to this Court on 7th October, 2025. The applicant was required to file the record of appeal within **sixty (60) days** therefore as per **Rule 84 (1)** of the **Court of Appeal Rules**. They did not hence the present application which is predicated upon **Rule 4** of the **Court of Appeal Rules** seeking to be granted leave to file and serve the record of appeal out of time.

2. The applicant explains the reason for the delay was occasioned by the delay of the Deputy Registrar of the Superior Court to issue the certificate of delay in time. They lodged the record of appeal on 8th December, 2025, a day after the last day they were required to have filed the record of appeal. The applicant therefore pleads with the Court to regularize the said filing of the record of appeal out of time and deem the record of appeal as properly filed. The application is supported by the annexed affidavit of **Roba Shani Duba** and the reasons stated on the face of the application.

3. The respondents were served with the application. An affidavit of service has been duly filed as proof of service. The respondents did not file any response in opposition to

the application. The application is therefore unopposed.

Under

Rule 4 of the **Court of Appeal Rules**, this Court has unfettered

discretion to grant or refuse an application such as the present one seeking extension of time to take any steps that is required to be taken within a prescribed time. This Court is persuaded by the reasons advanced by the applicant for the delay in lodging the appeal in time. The delay of one (1) day is not inordinate. It is excusable. The respondents will suffer no prejudice.

4. The application has merit and is hereby allowed. The record of appeal filed in Court on 8th December, 2025 is hereby deemed to have been properly filed and within time. The said record of appeal shall be served upon the respondents within **seven (7) days** of today's date. there shall be no orders as to costs.

Dated and delivered at Kisumu this 10th day of March, 2026.

L. KIMARU

.....
JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.