

**IN THE COURT OF
APPEAL AT
NAIROBI**

(CORAM: NJUGUNA, J.A. - IN CHAMBERS)

**CIVIL APPEAL (APPLICATION) NO. E766 OF
2025**

BETWEEN

LOIS NALANG'O ENE JOSEPH NGOSSOR.....APPLICANT

AND

PETER JOHN THUO NG'ANG'A.....RESPONDENT

(Being an application for extension of time to prefer an appeal against the decision of the Environment and Land Court at Kajiado (M. D. Mwangi, J.) dated 13th November 2025

in

ELC Case No. 95 of 2017)

R U L I N G

1. The applicant has moved this Court by way of the notice of motion dated 17th December 2025 seeking extension of time for filing the notice of appeal. She has also sought for extension of time within which to file and serve the record of appeal from the date of filing the notice of appeal.
2. According to the applicant, the delay in filing the notice of appeal within the prescribed time was occasioned by the need to obtain certified copies of the proceedings and judgment from the trial court, which proved more time-consuming than

anticipated, as well as thorough consultations with the appellant so as to properly frame the grounds of the intended appeal.

3. She avers that if this Court does not grant an extension of time, she will be gravely prejudiced as her fundamental rights to appeal will be curtailed.
4. In the respondent's replying affidavit, it is averred that from the reading of the affidavit in support of the urgency, and the supporting affidavit, two separate accounts or reasons are given for the delay. The reasons being, technical challenges on the Judiciary E-filing Platform and the need to obtain certified copies of proceedings and judgment, and advocate-client consultations, respectively.
5. The respondent avers that extension of time under **rule 4** of the **Court of Appeal Rules** is not a right, but an equitable remedy which ought to be exercised judicially, and that the delay has to be explained.
6. The respondent contends that the application for extension of time is an afterthought, and the same appears to have been proved by the respondent, as there is no indication that the applicant had applied for the proceedings before the draft decree was served upon her.
7. The respondent laments that he will suffer prejudice if the application is allowed, as he has in his favour, a judgment which has taken approximately 15 years to obtain, and therefore, granting the extension would be rewarding indolence and would undermine procedural discipline.

8. The Court has considered the material before it and the submissions filed by the respondent herein.
9. The power granted to a single Judge to extend time under the Rules is discretionary but guided by the laid-out principles, which are:

a) The length of the delay;

b) The delay is explained to the satisfaction of the Court;

c) Whether there will be prejudice suffered by the respondent if the extension is granted;

d) Whether the application is brought without undue delay; and

e) Public interest among others

See the Case of **Nicholas Kiptoo Arap Korir Salat vs. IEBC & 7 Others** (Supreme Court Application No. 16 of 2014) [2014] eKLR.

10. The Court has noted that the reasons for the delay are not convincing and are different, in that, the reasons given in the certificate of urgency are not the same as those captured in the supporting affidavit.
11. However, the Court finds that the delay in filing the Notice of Appeal was not inordinate and, in the interest of justice, the application is hereby allowed. The Notice of Appeal to be filed and served within seven (7) days from the date of this ruling. Further, the time of filing and serving the record of appeal is extended by 30 days from the date of filing of the notice of

appeal.

12. The respondent is awarded the costs of the application.

13. It is so ordered.

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

L. NJUGUNA

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

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

Signed

DEPUTY REGISTRAR

