



**Cheptoo v Chairman, Music Copyright Society Ltd (Civil Appeal (Application)  
E774 of 2025) [2026] KECA 371 (KLR) (27 February 2026) (Ruling)**

Neutral citation: [2026] KECA 371 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPEAL (APPLICATION) E774 OF 2025  
MN NDUMA, JA  
FEBRUARY 27, 2026**

**BETWEEN**

**AGNES CHEPTOO ..... APPLICANT**

**AND**

**THE CHAIRMAN, MUSIC COPYRIGHT SOCIETY LTD ..... RESPONDENT**

*(Being an application for extension of time to lodge and serve a Notice of Appeal out of time against the Judgment of the Employment and Labour Relations Court at Nairobi (D.K.N. Marete, J.) dated 25th June 2025 in (Nairobi Cause No. E717 of 2022)*

**RULING**

1. The matter before Court is an application dated 18<sup>th</sup> December 2025 by the applicant, Agnes Cheptoo, seeking leave to file and serve a Notice of Appeal out of time against the judgment of the Employment and Labour Relations Court (ELRC) in Cause No. E717 of 2022, delivered on 25<sup>th</sup> June 2025 by D.K.N. Marete. J.
2. The ELRC dismissed her claim for unfair termination, arrears of salary, allowances, and other employment-related dues. The applicant had been employed by the respondent from July 2010, rising to the position of Finance Manager in May 2021, before her dismissal on 5<sup>th</sup> November 2021. She alleged that her termination was wrongful, unfair, and unprocedural, while the respondent maintained that the dismissal was based on gross misconduct and dereliction of duty and was therefore for a valid reason and the respondent followed a fair procedure. The trial court found for the respondent and dismissed the claim.
3. The applicant contends that although judgment was delivered on 25<sup>th</sup> June 2025, her advocates only obtained a copy of the judgment on 3<sup>rd</sup> July 2025. She further avers that during the same period she suffered serious health challenges, evidenced by medical documents annexed to her affidavit, which hindered her ability to instruct counsel to lodge the appeal within the statutory fourteen-day period



prescribed under Rule 75(2) of the Court of Appeal Rules. A draft Notice of Appeal was eventually lodged on 2<sup>nd</sup> December 2025, well outside the prescribed time, hence the present application under Rule 4 of the Court of Appeal Rules.

4. Rule 4 of Court of Appeal Rules grants this Court unfettered discretion to extend time for the doing of any act authorized or required by the Rules, upon such terms as the Court may deem just. Section 3A and 3B of the [Appellate Jurisdiction Act](#) emphasize the overriding objective of facilitating the just, expeditious, proportionate, and affordable resolution of appeals. Article 159(2)(d) of [the Constitution](#) enjoins courts to administer justice without undue regard to procedural technicalities.
5. The principles governing extension of time are well settled. In *Leo Sila Mutiso v Rose Hellen Wangari Mwangi* [1999] 2 EA 231, the Court held that in exercising discretion under Rule 4, the court considers the length of delay, the reason for the delay, the chances of the appeal succeeding if the application is granted, and the degree of prejudice to the respondent.
6. The Supreme Court in *Nicholas Kiptoo Arap Korir Salat v IEBC & 7 Others* [2014] eKLR emphasized that extension of time is not a right but an equitable remedy, available only where sufficient cause is shown. In *Mwangi v Kenya Airways Ltd* [2003] eKLR, the Court reiterated that illness and inability to obtain proceedings may constitute sufficient cause for delay.
7. Applying these principles, the delay herein is approximately six months, which is substantial. However, the applicant has explained that she only obtained the judgment on 3<sup>rd</sup> July 2025, and thereafter suffered serious health challenges which limited her ability to instruct counsel. These reasons are supported by documentary evidence and are not indicative of indolence. The intended appeal is arguable, raising issues of law and fact including alleged violation of Sections 41, 43, and 45 of the [Employment Act](#), 2007 and Articles 41 and 47 of [the Constitution](#). These are not frivolous grounds. The respondent will not suffer prejudice beyond defending the appeal, while the applicant risks being shut out of the appellate process entirely if leave is denied.
8. On a balance of justice, and guided by the authorities cited, I am persuaded that the applicant has demonstrated sufficient cause to warrant the exercise of this Court's discretion in her favour.
9. Accordingly, the application dated 18<sup>th</sup> December 2025 is allowed. Time is extended for filing and serving the Appeal including the Notice of Appeal and record of appeal against the judgment of the ELRC (Cause No. E717 of 2022) delivered on 25<sup>th</sup> June 2025. The draft Notice of Appeal lodged on 2<sup>nd</sup> December 2025 is deemed duly filed and properly on record. Thereafter other statutory timelines will come into play from the date of delivery of this ruling. Costs of this application shall abide the outcome of the intended appeal.

**DATED AND DELIVERED AT NAIROBI THIS 27<sup>TH</sup> DAY OF FEBRUARY 2026.**

**NDUMA NDERI**

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**JUDGE OF APPEAL**

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

**Signed**

**DEPUTY REGISTRAR**

