



REPUBLIC OF KENYA



KENYA LAW
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Kenya Meat Commission v Kenya Union of Commercial Food and Allied Workers (Civil Appeal (Application) E425 of 2025) [2026] KECA 412 (KLR) (27 February 2026) (Ruling)

Neutral citation: [2026] KECA 412 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) E425 OF 2025
J MOHAMMED, JA
FEBRUARY 27, 2026**

BETWEEN

KENYA MEAT COMMISSION APPLICANT

AND

**KENYA UNION OF COMMERCIAL FOOD AND ALLIED
WORKERS RESPONDENT**

(Being an application for extension of time to file and serve the Record of Appeal in an Appeal against the entire Judgment and Decree of the Employment and Labour Relations Court of Kenya delivered at Nairobi on 23rd January 2025 in ELRC Cause No. 549 of 2013)

RULING

Background

1. This is a Notice of Motion dated 11th June 2025 brought under Sections 3A and 3B of the *Appellate Jurisdiction Act* and Rule 4 of the *Court of Appeal Rules, 2022* seeking extension of time to file and serve the Record of Appeal against the judgment of the Employment and Labour Relations Court (ELRC) delivered on 23rd January 2025.
2. Kenya Meat Commission (the applicant) further prays that the Record of Appeal filed on 4th June 2025 be deemed as duly filed and served. Kenya Union of Commercial Foods and Allied Workers is the respondent herein.
3. The record shows that the impugned judgment was delivered on 23rd January 2025; a Notice of Appeal was lodged on 10th February 2025. The typed proceedings were supplied on 30th April 2025 and a Certificate of Delay issued on 22nd May 2025. The Record of Appeal was filed on 4th June 2025.



4. The question is whether the applicant has satisfied the threshold for extension of time under Rule 4 in light of the requirement that a letter bespeaking proceeding must be served on the respondent to exclude time under Rule 84 of the *Court of Appeal Rules*, 2022.
5. Rule 84(1) of this *Court's Rules* provides that an appeal shall be instituted within sixty (60) days of lodging the Notice of Appeal. The proviso excludes from computation such time as may be certified by the Registrar as having been required for preparation and delivery of proceedings, provided that the appellant requested for the proceedings in writing within thirty (30) days and served the letter upon the respondent.
6. Service of the letter bespeaking proceedings upon the respondent is mandatory. The benefit of exclusion of time is only available where there is proof of such service.
7. From the record, although a letter dated 7th February 2025 was written requesting proceedings, there is no affidavit of service or acknowledgment evidencing service upon counsel for the respondent.
8. This Court has consistently held that failure to serve the letter bespeaking proceedings disentitles an applicant from relying on a certificate of delay. (See: *Musambayi & others (Sued on his own behalf and on behalf of 41 others) v Katula & another (Suing as the legal representatives of the Estate of Stephen Katula Muyendi)* (Civil Appeal (Application) No. E827 of 2022) [2024] KECA 186 (KLR).
9. Likewise, in *Marwa v Chacha* [2025] KECA 2151 (KLR), this Court reiterated that where service of the letter bespeaking proceedings is not demonstrated, time runs uninterrupted and the applicant cannot benefit from the exclusion contemplated under Rule 84.
10. The Supreme Court in *Nicholas Kiptoo Arap Korir Salat v IEBC & 7 Others* [2014] eKLR affirmed that extension of time is not a right but an equitable remedy available only to a deserving party who has complied with procedural requirements.
11. In the absence of proof of service, the applicant cannot benefit from exclusion of time. Consequently, the Record of Appeal filed on 4th June 2025 was filed outside the prescribed sixty days.
12. The omission to serve the letter bespeaking proceedings is substantive and not a mere procedural technicality curable under Article 159(2)(d) of the *Constitution*.
13. Accordingly, the Notice of Motion dated 11th June 2025 is hereby dismissed. The Record of Appeal filed on 4th June 2025 is struck out.
14. The respondent shall have the costs of this application.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF FEBRUARY, 2026.

JAMILA MOHAMMED

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

