

**REPUBLIC OF
KENYA IN THE COURT
OF APPEAL
AT NAIROBI
(CORAM: P. NYAMWEYA,
J.A.)**

**CIVIL APPLICATION NO. E508
OF 2025 BETWEEN**

**BERNARD MURIUKI MUNYI (Suing as Next of Friend of
CMM (MINOR)).....1st**

APPLICANT

CHRISTINE NJERI.....2ND

APPLICANT

AND

**MINET KENYA INSURANCE BROKERS LIMITED.1ST
RESPONDENT**

**KENYATTA NATIONAL HOSPITAL.....2ND
RESPONDENT**

*(An intended appeal from the Judgment for the High Court of
Kenya at Nairobi (E. C. Mwita J.) dated and delivered on 9th
December 2024*

*in
HCCHRPET/E481/2
022)*

RULING OF THE COURT

1. The High Court of Kenya at Nairobi (***E. C. Mwita J.*** -as he then was) delivered a judgment on 9th December 2024 in **HCCHRPET/E481/2022**, dismissing a petition filed by Bernard Muriuki Munyi (hereinafter “the Applicant”) in which redress had been sought for alleged violations of constitutional rights of the Minor CMM. The Applicant being aggrieved, has now filed an application in this Court by

way of a Notice of Motion dated 22nd July 2025, seeking leave to file and serve the appeal out of time against the judgment of the High Court delivered on 9th December 2024. The application is supported by an affidavit sworn on even date

by the Applicant. The reason proffered by the Applicant for the delay in filing the appeal was that it took the High Court 72 days to prepare and deliver certified proceedings after he made an application for the same on 17th December 2024 and to this end attached the Certificate of Delay, which showed that the proceedings were received on 28th February 2025.

2. I heard the application in chambers in the absence of the parties on 16th February 2026, and by that date the respondents had not yet filed any response to the application, although there was no evidence provided by the Applicant that the respondents were served with the application. In addition, I noted that the prayer sought by the Applicant in his application is as follows: *“That the Applicant be granted leave to file and serve appeal out of time against the Judgment of the High Court at Milimani delivered on the 9th December 2024 in HCCHRPET/E481/2022”*. I have perused the application, supported affidavit and submissions, and note that the Applicant has not averred to the filing of a notice of appeal, and there is none produced in evidence. Rule 77(2) of the Court of Appeal Rules, 2022 requires a Notice of Appeal to be filed within fourteen days after the date of the decision against which appeal is lodged by any person intending to appeal the decision. There is no requirement that the Notice of Appeal should be accompanied by

certified proceedings. More importantly, there is no

prayer that the time for filing a Notice of Appeal be extended, and no reason has been proffered by the Applicant as to why a Notice of Appeal was not lodged within the required fourteen days.

3. Absent a notice of appeal, I cannot consider the plea and reasons for extension of time to file the substantive appeal, since the Notice of Appeal is the main pleading that triggers this Court's jurisdiction to hear any application in relation to an appeal, and there is no evidence that the Applicant has filed such a Notice of Appeal. In effect, the instant application is incompetently filed before this Court.
4. The application dated 22nd July 2025 is accordingly struck out for the above reasons, with no orders as to costs.
5. Orders accordingly.

Dated and delivered at Nairobi this 27th day of February, 2026.

P. NYAMWEYA

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

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

Signed

DEPUTY

REGISTRAR.