



**Nyambura v Shikule & 4 others (Civil Application E556 of 2025)  
[2026] KECA 388 (KLR) (27 February 2026) (Ruling)**

Neutral citation: [2026] KECA 388 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPLICATION E556 OF 2025  
RB NGETICH, JA  
FEBRUARY 27, 2026  
IN THE MATTER OF AN INTENDED APPEAL**

**BETWEEN**

**CATHERINE NYAMBURA ..... APPLICANT**

**AND**

**PETER SHIKULE ..... 1<sup>ST</sup> RESPONDENT**

**PAULINE WAHOM ..... 2<sup>ND</sup> RESPONDENT**

**PAUL RADALO ODWE ..... 3<sup>RD</sup> RESPONDENT**

**CITY COUNCIL OF NAIROBI ..... 4<sup>TH</sup> RESPONDENT**

**REGISTRAR OF LANDS ..... 5<sup>TH</sup> RESPONDENT**

*(Being an application for extension of time to file a notice of appeal from the Judgment of the Environment and Court of Kenya at Nairobi (Lucy Mbugua, J) dated 17th December, 2024 in ELC No. 2228 of 2007)*

**RULING**

1. Before me is an application dated 17th September 2025 seeking extension of time to file an appeal. The application is premised on the grounds appearing on its face and the supporting affidavit. The applicant avers that following delivery of judgment on 17th December 2024, her advocates promptly applied for certified copies of proceedings and judgment. The proceedings were not availed until 30th June 2025 when counsel was notified that they were ready. A certificate of delay dated 29th July 2025 was subsequently issued on 5th August 2025. The applicant contends that the delay was not occasioned by her, and that upon receipt of the proceedings, she moved this Court without undue delay. It is further deposed that a notice of appeal was lodged one day after delivery of the judgment and that the



applicant is now ready to file the substantive appeal. A draft memorandum of appeal is annexed to the application and marked “ASK9”.

2. In submissions dated 18th February 2026, counsel for the applicant reiterated the grounds set out in the application and submitted that this Court has unfettered discretion to extend time. Counsel relied on *Andrew Kiplangat Chemaringo v Paul Kipkorir Kibet*, Civil Appeal No. 91 of 2017, and *Thuita Mwangi v Kenya Airways Ltd*, Civil Application No. 162 of 2002, for the proposition that the discretion under Rule 4 of the Court of Appeal Rules is to be exercised judiciously, taking into account all relevant circumstances of the case.
3. {This application is brought under Rule 4 of the Court of Appeal Rules, 2022, which vests in the Court an unfettered discretion to extend time limited by the Rules or by any decision of the Court. The principles guiding the exercise of this discretion are settled. The Court considers, among other factors, the length of the delay, the reason for the delay, the arguability of the intended appeal, and the degree of prejudice, if any, to the respondent. The discretion is equitable in nature and must be exercised on a case-by-case basis.
4. I have considered the material placed before me. The delay complained of is satisfactorily explained by the time taken by the court registry to prepare and supply the certified proceedings, as confirmed by the certificate of delay on record. Upon receipt of the proceedings, the applicant acted with reasonable promptitude in moving the Court. In the circumstances, I am satisfied that the delay was not inordinate and that the explanation offered is plausible and reasonable. I have also perused the draft memorandum of appeal and note that it raises arguable issues worthy of consideration by the Court, without expressing any concluded view on their ultimate merit.
5. In the absence of demonstrated prejudice to the respondents that cannot be compensated by costs, and bearing in mind the overriding objective of facilitating the just, expeditious, proportionate and affordable resolution of appeals, I am persuaded that this is an appropriate case for the exercise of the Court’s discretion in favour of the applicant.
6. From the foregoing, I hereby allow extension of time to file appeal. The memorandum of appeal annexed to the application is deemed as duly filed upon payment of the requisite court fees.

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

**R. NGETICH**

.....

**JUDGE OF APPEAL**

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

*Signed*

**DEPUTY REGISTRAR.**

Page 1 of 2

