



Langat v Greenview Nursing Home Kericho (Miscellaneous Civil Application E007 of 2025) [2026] KEHC 2374 (KLR) (19 February 2026) (Ruling)

Neutral citation: [2026] KEHC 2374 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
MISCELLANEOUS CIVIL APPLICATION E007 OF 2025
JK SERGON, J
FEBRUARY 19, 2026**

BETWEEN

VINCENT LANGAT APPLICANT

AND

GREENVIEW NURSING HOME KERICHO RESPONDENT

(An Application to file Appeal out of time from the ruling of the Small Claims Court at Kericho in SCCCCOMM/E050 of 2025 delivered by Hon. Clare Odunga on the 1th June, 2025)

RULING

1. Vincent Lang'at, the Applicant herein, took out the Motion dated 27th June, 2025 whereof he sought for leave to file an Appeal out of time against the ruling of the Small Claims Court vide Kericho S.C.C. Comm No. E050 of 2025 delivered on 18/6/2025, Greenview Nursing Home, Kericho, the Respondent herein, was served but it did not deem it fit to file a response to the application.
2. It is the averment of Applicant that he instituted a claim before the Small Claims court at Kericho seeking for payment of Kshs.318,586/= plus interest and punitive damages for breach of contract against the Respondent.
3. The Learned adjudicator who heard the claim, dismissed the claim in her ruling delivered on 18/6/2025 on the basis that the same was res-judicata and that it breached the doctrine of exhaustion. The Applicant further averred that he filed a Notice of appeal against the ruling but the Notice of Appeal was not signed by the Small Claims Court until the time to file an Appeal lapsed.
4. He also stated that he requested to be supplied with typed proceedings but the same has not been supplied to-date. He argued that the delay to file an Appeal was not his fault. He attributed the delay to the Court Registry. He averred that he has an arguable appeal and that the instant application was filed without unreasonable delay.



5. I have considered the grounds stated on the face of the motion plus the facts deponed in the Supporting Affidavit of Vincent Lang'at. Under the proviso to Section 79G of the *Civil Procedure Act*, an Applicant must satisfy the Court that he had good and sufficient cause for not filing the appeal in time. The law provides that an Applicant must file an Appeal within 30 days from the date of the delivery of Judgment or decree. The record shows that the ruling sought to be appealed from was delivered on 18th June, 2025 while the Applicant filed the application for leave to file an Appeal out of time on 27th June, 2025.
6. It is apparent that by that time, time to appeal had not lapsed. In fact by the time the Application was filed, only 9 days had lapsed. There was a total of 22 days remaining to file the Appeal. It would appear the application was pre-mature.
7. The main reason the Applicant put forward is not the typed proceedings had not been supplied to him. He also claimed that the Notice of appeal had not been signed by the Small Claims Court.
8. I must point out that it is a pre-requisite for one to file a Notice of appeal before filing an Appeal. It is also not a pre-requisite for one to obtain typed proceedings prior to filing an Appeal. The grounds or reasons advanced by the applicant for not filing appeal to this Court are not good nor sufficient.
9. I find the application seeking for leave to file an Appeal out of time to be premature and without merit. The same is dismissed. Since the Respondent did not oppose the application, I will not award costs. Each party should meet its own costs.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 19TH DAY OF FEBRUARY, 2026

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J.K. SERGON

JUDGE

In the presence of:-

C/Assistant - Rutoh

Munga for the Respondent

No Appearance for Applicant

