



**In re an Application by High Nutrition and Health Limited and Prime Bank Limited
for Leave to Register A Debenture Out of Time (Commercial Miscellaneous Application
E049 of 2026) [2026] KEHC 1066 (KLR) (Commercial and Tax) (26 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 1066 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL MISCELLANEOUS APPLICATION E049 OF 2026**

MA OTIENO, J

JANUARY 26, 2026

**IN THE MATTER OF THE COMPANIES ACT, NO. 17 OF
2015 AND THE COMPANIES (HIGH COURT) RULES, 1964**

AND

**IN THE MATTER OF AN APPLICATION BY HIGH NUTRITION AND HEALTH LIMITED
AND PRIME BANK LIMITED FOR LEAVE TO REGISTER A DEBENTURE OUT OF TIME**

RULING

1. The Applicants, High Nutrition and Health Limited (1st Applicant) and Prime Bank Limited (2nd Applicant), moved this Court by a Notice of Motion expressed to be brought under the *Companies Act*, 2015—particularly section 888—seeking, inter alia, an order extending time within which to register a debenture executed between the parties.
2. The motion is accompanied by a Certificate of Urgency sworn by Liza Mutungi, Advocate, who avers that the matter is urgent because the debenture secures an amount of Kenya Shillings 37,200,000, and unless the instrument is registered, the Bank’s security remains unsecured.
3. The application is supported by the Supporting Affidavit of Liza Mutungi, sworn on 20th January 2026, which sets out the factual basis for the delay and prays for the Court’s discretion to enlarge time to permit registration.
4. Ms. Mutungi deponed that the 1st Applicant executed a Debenture dated 20th November 2025 in favour of the 2nd Applicant. The deponent states she prepared the instrument and annexed it as Exhibit “LM-1”. (The affidavit records that the debenture has not yet been registered at the Companies Registry.)
5. It is averred that while stamp duty was paid within time, the e-Citizen system failed to recognise the payment of the Companies Registry filing fees within the prescribed period, causing the payment



to reflect outside the 30-day window; further, the Registry could not manually correct the anomaly. Consequently, registration of the debenture could not be approved within time.

6. The Applicants therefore seek an order that time be extended by thirty (30) days from the date of the Court's order to register the debenture pursuant to section 888(2)(b) of the *Companies Act*, 2015.

Analysis and Determination

7. From the application and affidavit material, the sole issue for determination is whether the Applicants have laid a sufficient basis for enlargement of time to register the debenture outside the statutory period.
8. Section 888(1) permits the Court to intervene where failure to register a charge within time was due to accident, inadvertence, or reasonable cause, or where delay is not prejudicial to creditors or members. The Court may extend time if it is just and equitable to do so under section 888(2).
9. In *In re Application for Extension of time for Registration of a Charge by Silverspead Hardwares Limited in Favour of Bank of Baroda (Kenya) Limited* [2021] KEELC 2015 (KLR), the Court emphasized that the parameters the court has to consider before granting the extension are:
 - i. Whether it was accidental or due to inadvertence or some other reasonable cause.
 - ii. Whether non-compliance has prejudiced the creditors or members of the company.
 - iii. If it is just, equitable, fair and reasonable.
 - iv. Whether the mistake, or omission and misstatement is rectifiable.
10. Similarly, in *Bank of Baroda Kenya Ltd v Registrar of Companies* [2025] eKLR, the Court allowing a similar application held that inadvertent delay in lodging a charge, where explained and untainted by bad faith, constitutes sufficient cause for extension. The Court stated that:

“The omission in the present case pertains solely to the failure to register the Debenture at the Companies Registry within the statutory period prescribed under Section 885 of the *Companies Act*. Notwithstanding this procedural lapse, the Debenture was duly executed, assessed for stamp duty, duly franked, and registered at the Lands Registry. The omission is therefore procedural in nature and, in the Court's view, clearly rectifiable.”
11. The present case falls squarely within these principles. The delay arose from a system failure, not neglect; no third-party prejudice is demonstrated; and the Bank's secured position depends on regularization.
12. Accordingly, the Court finds the present application merited, and hereby issues the following orders: -
 - i. Time for registration of the Debenture dated 20th November 2025 is extended by thirty (30) days from the date of this ruling, pursuant to section 888(2)(b) of the *Companies Act*, 2015.
 - ii. The Companies Registry/Business Registration Service shall accept the instrument for registration within the extended period.
 - iii. There shall be no orders as to costs.
13. It is so ordered.

SIGNED, DATED, and DELIVERED IN VIRTUAL COURT THIS 26TH JANUARY 2026

ADO MOSES



JUDGE

