

**IN THE COURT OF  
APPEAL AT NAKURU**

**(CORAM: MATIVO, JA (IN CHAMBERS))**

**CIVIL APPLICATION NO. NAK E013 OF**

**2026 BETWEEN**

**DAVE LANGAT.....APPLICANT**

**AND**

**STEPHEN MACHARIA & 2 OTHERS.....RESPONDENTS**

*(Being an application for leave to file and serve notice of appeal from the ruling and order of the High Court of Kenya at Nakuru (S. M. Muhochi, J.) dated 25<sup>th</sup> November 2025*

*in*

***HCCC No. E479 of 2023).***

**\*\*\*\*\***

**RULING**

1. David Langat in his application dated 27<sup>th</sup> January 2026 seeks extension of time to lodge and serve a notice of appeal and a memorandum of appeal out of time against the decision rendered on 25<sup>th</sup> November 2025 in CMCC Civil Case No. E476 of 2023. He also prays that the notice of appeal dated 18<sup>th</sup> July 2025 be deemed as duly filed and served. Lastly, he prays for costs of the application to be in the appeal
2. In support of the application he states: (a) he seeks to regularize earlier filed documents; (b) his suit was dismissed for want of prosecution; (c) he applied and paid for typed proceedings; (d) the

delay is not inordinate; (e) his appeal is arguable and no prejudice will be occasioned to the respondents.

3. In reply to the application, the respondents filed the undated replying affidavit of the 1<sup>st</sup> respondent. The key highlights are: (a) the application is improperly filed before this Court, in that, it ought to have first been filed before the trial Court; (b) the case no. CMCC 476 of 2023 is misleading since *Muchochi, J.* never issued any orders in the said case; (c) Judge Muchochi heard and determined HCCA No 289 of 2024; (d) the application does not satisfy the threshold.
4. The applicant's plea to this Court to grant him extension of time to appeal against the decision of a Magistrate's Court raises a pertinent jurisdictional question. Because a Court's jurisdiction is critical, I must address it at this early opportunity because it is a decisive question. In fact, at paragraph 5 of his submissions counsel confirms this position.
5. This Court's jurisdiction is primarily established by Article 164 (3) of the Constitution, which grants it the power to hear appeals from: (a) the High Court. This includes first appeals on both points of law and fact; (b) Courts of Status. These include the Employment and Labour Relations Court and the Environment and Land Court; (b) prescribed tribunals. This includes any other

Court or tribunal as prescribed by an Act of Parliament (such as the Appellate Jurisdiction Act). (See also the Appellate Jurisdiction Act). The Court of Appeal does not have the power to hear appeals directly from the Magistrates' Court. Under the current constitutional and statutory framework, the High Court serves as the primary appellate body for decisions made in subordinate Courts, including those of Magistrates.

6. Accordingly, the application dated 27<sup>th</sup> January 2026 is fundamentally flawed. It was dead on arrival. I dismiss it with costs to the respondents.

**Dated and delivered at Nakuru this 17<sup>th</sup> day of March, 2026.**

**J. MATIVO**

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

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

*Signed.*

**DEPUTY REGISTRAR.**