

**IN THE COURT OF  
APPEAL AT NAKURU**

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

**CIVIL APPLICATION NO. NAK E011 OF**

**2026 BETWEEN**

**STANDARD CHARTERED BANK LIMITED.....APPLICANT**

**AND**

**STEPHEN TAJEU MOLOI.....RESPONDENT**

*(Being an application for leave to lodge and serve notice of appeal from the judgment of the Employment and Labour Relations Court of Kenya at Nakuru (H. Wasilwa, J.) dated 26<sup>th</sup> September 2024*

*in*

***ELRC Cause No. E005 of 2023).***

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

**RULING**

1. The applicant prays for extension of time to lodge its notice of appeal and record of appeal against the judgment of *Wasilwa, J* in ELRC Cause No. E005 of 2023 delivered on 26<sup>th</sup> September 2024.
2. In support of the application, the applicant states that: (a) on 14<sup>th</sup> January 2026, this Court struck out its notice of appeal necessitating this application; (b) the delay in filing the application was medical emergency suffered by the applicant's advocate; (b) this application was filed without delay after the notice of appeal was struck out; (c) that the intended appeal is

arguable; (d) if leave

is not granted the appeal will be rendered nugatory; (d) the application was filed without delay.

3. The application is opposed. The respondent filed a replying affidavit dated 6<sup>th</sup> February 2026. The salient averments are: (a) this is an appeal disguised as an application; (b) on 14<sup>th</sup> January 2026 this Court struck out the applicant's application; and (c) this application is an invitation to a single judge to vary a decision of the full bench of this Court.
4. The nub of the applicant's submissions dated 10<sup>th</sup> February 2026 is: (a) the applicant has provided a candid explanation for the delay; (b) medical condition affected counsel's work; (c) no prejudice will be occasioned to the respondent; (d) the delay was not intentional; (d) the appeal has high chances of success and it raises important Constitutional issues; (e) the respondent has since been substantively reinstated.
5. The key highlights of the respondent's submissions are: (a) the applicant has not approached the Court with clean hands: (b) the respondent would suffer prejudice; (c) the applicant's law firm ignored the filing of the appeal despite enjoying stay orders.
6. Under the Court of Appeal Rules, 2022, a litigant whose notice of appeal has been struck out may apply for an extension of time to file a fresh notice of appeal and record of appeal. Rule

4 grants a

single Judge of the Court unfettered discretion to extend the time

limited by the rules for doing any authorized or required act. This power applies even if the act (such as filing a notice of appeal) was required to be done before the application for extension was made.

7. When a notice of appeal is struck out (e.g., for being filed out of time or for failing to take an essential step), the Court considers several established factors to decide whether to grant an extension to file a fresh one. The Court considers the length of the delay, the reasons for the delay, merits of the appeal, prejudice to the other party. Courts do not grant these extensions as a matter of right; they are a "*concession granted at the Court's discretion*" based on the interests of justice.
8. Upon consideration, I am not persuaded that the applicant who it is said has since been reinstated will be prejudiced. The interests of justice tilt in favour of granting the extension sought. I allow the application and direct the applicant to file the notice of appeal and the appeal within 14 days from today.

**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.**