

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT**  
**SIAYA**  
**ELC APPEAL NO. E030 OF 2025**

**JACOB ARAM NYANYUMA .....1<sup>ST</sup>**  
**APPELLANT**

**CAROLINE JEMIMA WANGA.....2<sup>ND</sup>**  
**APPELLANT**

**-versus**

**EUNICE ONYANGO OWINO.....**  
**RESPONDENT**

**RULING**

1. The ruling is the subject of the application dated 27/6/2025 filed on 7/7/2025 under certificate of urgency. The court issued directions 8/7/2025 and ordered that the same be served upon the respondents. I also declined to certify the application urgent. The respondents were served through the advocate who represented them in the trial court as per the Affidavit of service sworn by George Oketch Advocate on 26/10/2025 and filed on 29/10/2025. They did not respond to the application.
2. The Court then issued directions for counsel for application to file submissions in support of the application. Counsel complied and filed submissions dated 10/11/2025 which I have considered.

## **ANALYSIS AND DETERMINATION**

3. I have considered the application, the grounds upon which it is premised and the depositions on the supporting affidavit of JACO ARAM NYANYUMA. The application seeks two reliefs: -
  - 1) Extension of time to file an appeal against the Judgment in Civil Case No. E049 OF 2023 delivered at Bondo Law Courts and attaches the draft memorandum of appeal.
  - 2) Stay of execution of the said Judgment delivered on 22/11/2024.
2. The court notes that while that application is not opposed it must be decided on its merits.
3. The power of the court to grant leave for filing an appeal out of time is donated under section 79 of the Civil procedure Act as follows: -
4. Extension of time is not a right only on deserving party can be granted the leave. It is therefore discretionary.
5. The court is guided by the case in **Nicholas Kiptoo Arap Korir Sala vs IEBC & Other (2014)**. A court must look at the length of delay, reasons for the delay and the degree of prejudice to be occasioned to the decree holder.
6. The main reasons furnished by the applicant is that his advocate on record was never informed of the date when the judgment was to be delivered and learnt of it several months later. The applicant now desires to appeal the judgment.

The delay occasioned by this is about 8 months. There is no disclosure as to when the proposed applicant discovered from his advocate about the judgment. It is also not disclosed as to when the said advocate discovered that judgment was delivered ex parte and the date of delivery of the same.

7. The applicant has also not indicated why it took them over 7 months to inquire about the judgment. An applicant must make full disclosure and nothing should be concealed to the court since the reliefs he is seeking are discretionary.
8. What I see is a litigant who is indolent and wants to hide under the guise of his Advocate. It is further noted that a copy of the judgment has not been annexed to the application and it is not clear how the grounds of application were derived so as to gauge the arguability of the appeal and how the same will be rendered nugatory.
9. For the foregoing reasons I find no justification to exercise the discretion to enlarge time in the applicant's favour.
11. Having declined to exercise the discretion to enlarge time in favour of the applicant, I shall not venture into the order sought for stay of execution.
12. The application dated 27/06/2025 is hereby dismissed with no orders as to costs.

**HON. JUSTICE A. E. DENA**  
**JUDGE**

**19.3.2026**

**Ruling delivered virtually through Microsoft Teams  
Video Conferencing Platform in the Presence of:**

**N/A** for the Applicants

N/A for the respondents

Court assistant: Ishmael Orwa

ORIGINAL