

**IN THE COURT OF APPEAL  
AT NAIROBI  
(CORAM: MUMBI NGUGI, JA, (IN  
CHAMBERS) CIVIL APPLICATION NO. E496  
OF 2025 BETWEEN**

**SAHAM ASSURANCE COMPANY (K) LIMITED.....APPLICANT**

**AND**

**GODFREY NYANDERA ABWAO..... 1<sup>ST</sup>  
RESPONDENT MARTHA ADHIAMBO  
NYANDERA.....2<sup>ND</sup> RESPONDENT LABAN OKOTH  
OMINDE.....3<sup>RD</sup> RESPONDENT**

*(Being an application for extension of time and certification that the intended appeal raises matters of general public importance to the Supreme Court against the Judgment of the Court of Appeal at Nairobi (Musinga (P), Sichale & Ochieng, JJ.A.) delivered on 20<sup>th</sup> June 2025*

*in*

***Civil Appeal No. E725 of 2023)***

\*\*\*\*\*

**RULING**

1. Before me is an application dated 11<sup>th</sup> August 2025 filed by the applicant, **Saham Assurance Company (K) Limited**. The application is omnibus in nature. It seeks, at prayer 2, extension of time to file the application seeking certification that its intended appeal to the Supreme Court raises substantial questions of constitutional interpretation and matters of general public importance; prayer 3 seeks certification that the intended appeal raises substantial

questions of constitutional interpretation and matters of general public importance thereby necessitating determination by the Supreme Court pursuant to Article 163(4)(b); prayer 4 seeks leave to appeal to the Supreme Court against the judgment of this Court delivered on 20<sup>th</sup> June 2025 in Civil Appeal No. E725 of 2023; while prayer 5 and 6 seek stay of execution pending the hearing of the application and the appeal to the Supreme Court respectively.

2. Under the provisions of rule 55 of this Court's Rules, the only prayer that is within my jurisdiction as a single judge of this Court is prayer 2 seeking extension of time, which prayer is premised on rule 4 of this Court's Rules.
3. The application is supported by two affidavits sworn on 11<sup>th</sup> August 2025, one by the applicant's Legal Officer, Ms. Sarah Weru, and the other by its advocate on record, Mr. Rodgers Opiyo. The applicant avers that the judgment of this Court was delivered on 20<sup>th</sup> June 2025. In the said judgment, this Court declared that the applicant should settle the decretal sum of Kenya Shillings Two Million Six Hundred and Two Thousand Nine Hundred and Seventy-Eight (Kshs. 2,602,978) due to the respondent, together

with costs and interest

thereon at court rates from 16<sup>th</sup> October 2021 until payment in full.

4. The applicant avers that under rule 41(2) of this Court's Rules, it should have filed an application for certification within 30 days of the said judgment, that is by 21<sup>st</sup> July 2025. It sets out the reasons for the delay in filing the application in the affidavit of Rodgers Opiyo, attributing the delay to a medical emergency. Mr. Opiyo avers that he fell ill and was out of the office up to 30<sup>th</sup> July 2025, and he could therefore not prepare the documents necessary to file the application, but that he filed the application soon after returning to the office. He has annexed to his application a note from a Dr. Opondo indicating that he was diagnosed with peptic ulcers and required to be out of the office for some time.
5. The applicant filed submissions dated 14<sup>th</sup> September 2025 in which it urges the Court to exercise its discretion to extend time. It cites the decision in **Salat v Independent Electoral and Boundaries Commission & 7 others** [2014] eKLR with respect to the principles to be considered on an application for extension of time.

6. The application is opposed by an affidavit sworn by the 1<sup>st</sup> respondent on 26<sup>th</sup> January 2026 and submissions dated 26<sup>th</sup> January 2026. The 1<sup>st</sup> respondent avers that no sufficient, credible, or plausible explanation has been advanced to justify the delay in filing the application for certification as the counsel who was on record for the applicant during the hearing of the appeal was one Mr Isolio advocate and not Mr. Opiyo. It is the respondents' case therefore that the averment that the delay was caused by the illness of counsel is untrue and misleading.
7. I have considered the application for extension of time and the averments and submissions in support or opposition thereto. As submitted by the applicant, under rule 41(2) of this Court's Rules, an application for certification should have been lodged within 30 days of the judgment of this Court dated 20<sup>th</sup> June 2025, which would have been on or about 19<sup>th</sup> July 2025. There was thus a delay in filing the application, the present application for, *inter alia*, extension of time having been filed on 11<sup>th</sup> August 2025.
8. As noted earlier, an application for extension of time falls within the jurisdiction of a single judge of this Court, which is

vested with the discretion under rule 4 to extend time if satisfied, on a consideration of settled factors, that such extension is merited. These factors include the length of the delay, the reasons for the delay, (possibly) the chances of the appeal succeeding if the application is granted, and the degree of prejudice to the respondent if the application is granted-see **Salat v Independent Electoral and Boundaries Commission & 7 others** [2014] KESC 12 (KLR).

9. The judgment of this Court having been delivered on 20<sup>th</sup> June 2025, the application for certification ought to have been filed within 30 days from the said date. This application having been filed on 11<sup>th</sup> August 2025, there was a delay of 21 days.
10. The applicant has attributed the delay to the illness of its advocate on record and has placed before the Court a report from a doctor to this effect. The respondents question the

applicant's averments, asserting that the applicant's advocate before this Court in the appeal was different. Having considered the averments for the applicant and the documents before me, I am satisfied that the delay, which

is not in any event inordinate, has been satisfactorily explained.

Having so found, I need not consider the other factors under rule 4.

11. I accordingly allow the applicant's prayer for extension of time. The application dated 11<sup>th</sup> August 2025 may be placed for hearing of the outstanding prayers before a full bench of this Court.

12. I make no order as to costs.

**Dated and delivered at Nairobi this 25<sup>th</sup> day of March, 2026.**

**MUMBI NGUGI**

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

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

**Signed**

**DEPUTY REGISTRAR.**