

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL & TAX DIVISION
MISCELLANEOUS APPLICATION NO. E413 OF 2026
IN THE MATTER OF THE COMPANIES ACT (ACT NO OF THE
LAWS OF KENYA)
AND
IN THE MATTER OF AN APPLICATION FOR EXTENSION OF
TIME FOR
REGISTRATION OF CHARGES BY NUREX LIMITED IN FAVOUR
OF DIB BANK KENYA LIMITED

DIB BANK KENYA LIMITED.....
APPLICANT
AND
NUREX LIMITED
.....CHARGOR
VERSUS
THE REGISTRAR OF COMPANIES.....
RESPONDENT
RULING

1. This Ruling pertains to the Applicant’s *ex parte* Notice of Motion dated 14th April, 2026, brought pursuant to Under **Sections 884, 885, 888 and 889 of the Companies Act 2015, Section 1A, 1B and 3A of the Civil Procedure Act and Article 159 of the Constitution, of the Laws of Kenya.** Through the said application, the Applicant has moved this Court seeking the following reliefs:
 - (a) *Spent.*
 - (b) *THAT an extension of time be granted for thirty days so as to register with the Registrar of Companies the charges dated 28th January, 2026 issued by Nurex Limited over*

*Property Title Number NAIROBI/BLOCK 14/172/172 and
Property Title Number NAIROBI/BLOCK 15/390/290.*

2. This Application was supported by the sworn affidavit of **Kenneth Odhiambo**, an Advocate of the High Court of Kenya, dated the same day as the Application. **Mr. Odhiambo** practices in the firm of **M/s Onyango & Ameyo Advocates**, who have conduct of this matter on behalf of the Applicant.

Issues For Determination

3. The Court has carefully considered the Motion, the statutory provisions cited, the Supporting Affidavit, and the annexures thereto. Upon such consideration, the Court is of the view that only one issue arises for determination:
 - (a) *Whether leave should be granted to the Applicant to register the Charges dated 28th January, 2026 at the Companies Registry out of time.*

Analysis

4. Pursuant to **Section 884 of the Companies Act**, the Registrar of Companies is mandated to maintain a register of charges, register such charges, issue certificates of registration thereof, and authenticate the same with the Registrar's Official Seal. Under **Section 885 of the Act**, the statutory timeline for registration of a charge is thirty (30) days from the date of its creation. In the event of non-compliance, **Section 888 (1) of the Companies Act** empowers any interested party or the

company itself to apply to the Court for an extension of the prescribed period for registration.

5. Further, when considering an extension under **Section 888**, the Court examines whether the delay was accidental or reasonably explained, whether it prejudiced creditors or members, whether granting the extension is just and fair, and whether the omission is rectifiable. This requirement that such a charge must be registered with the Registrar of Companies within thirty (30) days from the date of its creation is statutory and not discretionary. It is evident that the parties have complied with all the necessary legal requirements in the creation of the charge, save for the registration, which was delayed due to reasons sufficiently explained and which were beyond their control.
6. In his affidavit, Counsel for the Applicant deponed that on 2nd September 2025, the Applicant instructed them to prepare a charge over Property Title Number NAIROBI/BLOCK 14/172/172 owned by **Nurex Limited**, to secure a loan amount of Kshs 4,500,000/-under the terms of the Loan facility dated 17th June, 2025 and 28th August, 2025. That further on 18th November, 2025, the Applicant issued further instructions to the Advocates to prepare a charge over Property Title Number NAIROBI/BLOCK 15/390/290, owned by **Nurex Limited**, to secure a loan amount of Kshs 4,875,000/-under the terms of the Loan facility dated 17th June, 2025 and 28th August, 2025.

7. Counsel averred that, while they were able to obtain duly registered security documents from the Lands Registry, they were unable to register the Charge at the Companies Registry as the statutory period for such registration had already lapsed during the period taken to assess, stamp, and register the Charge at the Lands Office. Pursuant to Section 885 of the Companies Act, No. 17 of 2015, the Company was required to register the Charge with the Registrar of Companies within thirty (30) days from the date of its creation. The delay in presenting the Charge for registration at the Companies Registry was occasioned by delays in the settlement of stamp duty, which delay was unintentional and beyond the control of both the Applicant and the Chargor.
8. THAT the Charges were registered on 23rd February, 2026 against the titles however, the original title deeds and registered charges relating to the two properties were misplaced thereafter at the Lands Registry in Nairobi and the Land Registry requested for additional lime to locate the title deeds and charges. That on or about 12th March, 2026, the Advocates were notified that the original title deed and charge instrument for Property Title No. NAIROBI/BLOCK 15/390/290 had been traced and ready for collection and subsequently on 16th March, 2026, a certificate of post registration search was issued. Then on or about 13th March, 2026, the Advocates were notified that the original title deed for Property Title No.

NAIROBI/BLOCK 14/172/172 together with the registered charge instrument had been traced and ready for collection.

9. That the delay in tracing the original title deeds and charge instruments prevented the timely registration of the Charge with the Registrar of Companies, thus causing the failure to meet the statutory registration deadline of 30 days from the date of creation of the Charge. Further, the Ardhi Sasa System currently being implemented by the Ministry of Lands at the Nairobi registry occasioned delays in registration and in the final release of the documents. This is because the system would on numerous occasions request for resubmission of documents due to technical errors. The said technical challenges constrained the Applicant to seek intervention of the Lands office officials on several occasions. This went on until much later when the Ministry of Lands was able to finally finalise the registration. This was albeit late and well beyond the statutory time line for registration at the Companies Registry. The delay in registering the Charges at the Companies Registry as required by law was neither intentional nor attributable to the Applicant.
10. The omission in the present case pertains solely to the failure to register the Charges at the Companies Registry within the statutory period prescribed under **Section 885 of the Companies Act**. Notwithstanding this procedural lapse, the Charges 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. While it is acknowledged that non-registration at the Companies Registry may affect the enforceability of the Charges as against third parties, the failure to comply with the prescribed timeline was neither wilful nor negligent. In the circumstances, the delay should not defeat an otherwise valid security instrument. This approach aligns with the provisions of **Article 159(2)(d) of the Constitution**, which enjoins Courts to administer justice without undue regard to procedural technicalities. This is in line with the general principles of the Companies Act, which favour the promotion of substantive rights and commercial certainty.

11. There is no evidence on record to suggest that the delay in registration has occasioned any prejudice to the company's creditors or members. On the contrary, the regularisation of the registration will enhance the protection of the lender's interest and promote commercial transparency. The affidavit and annexures confirm that all substantive steps in the creation of the Charges, execution, stamping, and registration at the Lands Registry, were duly undertaken in a timely manner, save for the Companies Registry filing. Accordingly, the Court is satisfied that the Applicant has provided a reasonable explanation for the delay, that the omission is capable of remedy, and that no prejudice has been occasioned to any party. The Court therefore finds it just and equitable to exercise its discretion under Section 888(1) of the Companies Act. In the

result, the prayers sought in the Notice of Motion dated 14th April, 2026 are hereby granted.

Determination

12. That the Application by way of a Notice of Motion dated 14th April, 2026 is allowed in the following terms;

(a) *THAT an extension of time is **HEREBY** granted for thirty days so as to register with the Registrar of Companies the charges dated 28th January, 2026 issued by **Nurex Limited** over Property Title Number NAIROBI/BLOCK 14/172/172 and Property Title Number NAIROBI/BLOCK 15/390/290.*

13. Given the nature of the application, there shall be no order as to costs.

14. It is so ordered.

15. The file is hereby closed.

DATED, SIGNED AND DELIVERED AT MILIMANI THIS 20TH DAY OF APRIL, 2026.

**NJOROGE BENJAMIN K.
JUDGE**

In the presence of;

Mr. Odhiambo for the Applicants.

Peter Wabwile - Court Assistant