



REPUBLIC OF KENYA



In re Extension of time for Registration of a Debenture (Miscellaneous Application 442 of 2026) [2026] KEHC 5278 (KLR) (Commercial and Tax) (21 April 2026) (Ruling)

Neutral citation: [2026] KEHC 5278 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION 442 OF 2026
MA OTIENO, J
APRIL 21, 2026
IN THE MATTER OF KUA VENTURES LIMITED
AND
IN THE MATTER OF SECTION 888 OF THE COMPANIES ACT, 2015
AND
IN THE MATTER OF AN APPLICATION FOR EXTENSION
OF TIME FOR REGISTRATION OF A DEBENTURE**

RULING

Introduction

1. The Applicant, Kua Ventures Limited, moved this Court by way of a Notice of Motion dated 20th April 2026, brought ex parte under Section 888 of the *Companies Act*, 2015, Section 3A of the *Civil Procedure Act*, Order 51 Rule 1 of the Civil Procedure Rules, 2010, and all other enabling provisions of the law.
2. The substantive prayer before the Court is for extension of time for registration of a Floating Charge Debenture dated 9th March 2026, securing the sum of Kenya Shillings Fifteen Million (KES 15,000,000), whose statutory period for registration expired on 9th April 2026.
3. The Application is supported by the affidavit of Eric N. Mugo, Advocate of the High Court of Kenya, sworn on behalf of the Applicant.
4. The Applicant's case, as gleaned from the Motion and the Supporting Affidavit, is that a Floating Charge Debenture was duly created on 9th March 2026 over all the Borrower's receivables and credit rights, whether present or future.
5. It is further deponed that the statutory period of thirty (30) days for registration of the Debenture at the Companies Registry lapsed on 9th April 2026, without registration having been effected, and that



- the failure to register the Debenture within time was attributed to housekeeping issues between the Applicant and the Borrower, the consequences of which could not reasonably have been foreseen.
6. The Applicant asserts that the omission was inadvertent and not deliberate, and no prejudice was intended or occasioned. The Debenture was duly franked for stamp duty purposes and exempted under the *Stamp Duty Act*.
 7. It is contended that the Applicant stands to suffer irreparable harm should the orders sought not be granted, as the validity and enforceability of the security is dependent on proper registration.
 8. The Applicant therefore urged this Court to exercise its discretion in and allow the application in the interest of justice.

Analysis and Determination

9. From the pleadings, the sole issue that arises for determination is whether this Court should exercise its discretion under Section 888 of the *Companies Act*, 2015, to extend time for registration of the Debenture.
10. Section 888 of the *Companies Act*, 2015 grants this Court discretionary power to extend the time for registration of a charge where the failure to register occurs due to accident, inadvertence, or other sufficient cause, and where it is just and equitable to do so.
11. From the material placed before the Court, I am satisfied that;
 - i. The Debenture was validly created on 9th March 2026.
 - ii. The delay in registration was explained, and no evidence has been placed before the Court to suggest bad faith, fraud, or deliberate default.
 - iii. The Application was filed without undue delay after discovery of the omission.
 - iv. No prejudice to third parties has been disclosed, particularly given that the Application is ex parte and concerns perfection of an already existing security.
 - v. Denial of the orders sought would unjustly defeat the Applicant's proprietary and contractual rights.
12. The Court takes the view that the purpose of registration requirements under the *Companies Act* is not to punish parties for inadvertent omission, but to ensure transparency and protection of third-party interests. Where no such interests are shown to be jeopardized, and sufficient cause is demonstrated, the Court ought to lean in favour of sustaining substantive justice.
13. In exercising this discretion, the Court is guided by the principle established in *National Bank of Kenya Ltd v Michael Ndungu* [2018] eKLR, which emphasizes that where a delay is explained, and no third-party interests are prejudiced, the Court should favor the perfection of substantive security interests over procedural technicalities.
14. In the premises, and for the reasons stated above, the Court finds merit in the Application and makes the following orders:
 - i. Time for registration at the Companies Registry of the Floating Charge Debenture dated 9th March 2026 and securing the sum of Kenya Shillings Fifteen Million (KES 15,000,000) is hereby extended for a period of thirty (30) days from the date of this Ruling.



- ii. The Debenture shall, upon registration, be deemed to have been validly registered for purposes of the *Companies Act*, 2015.
- iii. There shall be no order as to costs, the Application having been made ex parte.

15. It is so ordered.

DATED, SIGNED, AND DELIVERED AT NAIROBI THIS 21ST DAY OF APRIL 2026

HON. MR. JUSTICE MOSES ADO

JUDGE OF THE HIGH COURT

