



**Chesyna v Matunda t/a EM Juma & Co Advocates (Civil Application
E026 of 2026) [2026] KECA 872 (KLR) (8 May 2026) (Ruling)**

Neutral citation: [2026] KECA 872 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPLICATION E026 OF 2026
MB KIARARIA, JA
MAY 8, 2026**

BETWEEN

JEBET CHEBII CHESYNA APPLICANT

AND

EVANS JUMA MATUNDA T/A EM JUMA & CO ADVOCATES .. RESPONDENT

(An application for extension of time to file the memorandum and record of appeal from the ruling and order of the Environment and Land Court at Nakuru (Dr. M. A Odeny) delivered on 28th October, 2025 in Nakuru ELC Mis. Applications No. E043 OF 2024)

RULING

1. By the Notice of Motion application dated 10th February ,2026 [the applicant] seeks extension of time to file the Memorandum and record of appeal against the ruling and order of the Hon. Dr. MA Odeny J delivered on 28th October,2025 in Nak. Misc. Application E043 of 2024.
2. The learned judges allowed the Respondent’s application dated 24th January 2023 for adoption of the certificate of costs as decree and judgment of the court and dismissed the applicant’s application dated 17th June 2025 for inter alia enlargement of time to file a reference against the decision on taxation dated 2nd September, 2021 taxing the Advocate/Client Bill of costs in Nakuru High Court Civil Division Misc. Appl. NO. E076 OF 2021 at Ksh 571,710.
3. The applicant was aggrieved by that decision. She desires to appeal and now invokes this Court’s discretionary jurisdiction to extend time under rule 4 of the Court of Appeal Rules 2022 to enable her file the Memorandum and record of appeal and pursue the intended appeal which she reckons is arguable and raises serious questions of law deserving consideration of the Court of Appeal.
4. The application is founded on the grounds set out in the notice of motion supported by the averments in the supporting affidavit sworn on 10th February2026, the written submissions of counsel dated 15th March 2026 and cited case law notably the case of Leo Sila Mutiso and Tony Keter on the



principles governing the court when exercising jurisdiction to extend time and the Motor Lilian 'S' on the importance of jurisdiction.

5. The factual background giving rise to the application can be briefly stated: the ruling sought to be appealed was delivered on 28th October, 2025 basically adopting the certificate of taxation as a decree and judgment of the court thus paving way for execution proceedings, the applicant did not immediately initiate the appeal process, the matter came up in court for mention on 12th January, 2026 when the applicant says the ELC court directed parties to explore settlement, negotiations were pursued but were not successful, the applicant became apprehensive that the Respondent could resort to execution on the basis of the impugned certificate of taxation.
6. The applicant says that she moved with promptitude to lodge a notice of appeal upon crystallization of the threat to execution. She does not indicate when she lodged the notice of appeal dated 31st October, 2025 annexed as Exhibit [JCC-1] in the supporting affidavit. That Notice is not signed by the Deputy Registrar of the ELC court. She has also exhibited a letter requesting for typed proceedings dated 1st November 2025 addressed to the Deputy Registrar of the ELC court [exhibit JCC2] but again it is not indicated when the letter was delivered to the court.
7. The applicant concedes that she is out of time in filing the memorandum and record of appeal and wishes to regularize the process of appeal by lodging the application before me.
8. The time for filing the Memorandum of and Record of appeal is governed by the Court of Appeal Rules. In particular rule 84 ordains that an appeal shall be instituted by lodging in the appropriate registry a memorandum of appeal and the record of appeal within sixty days after the date when the notice of appeal was lodged. The applicant has not indicated when she lodged the notice of appeal and the copy of the notice relied upon in support of the application is not in fact lodged in court. If the Notice of appeal was indeed lodged "upon the crystallization of the threat of execution" after negotiations fell through then such notice of appeal would be incompetent as it was not lodged within 14 days of the decision sought to be appealed was made on 28th October, 2025. Such a notice ought to have been filed by 11th November, 2025. It has not been shown that any was filed and served by that date or at all.
9. In the absence of a validly filed notice of appeal an application for extension of time to file a memorandum and record of appeal like in the instant would not be founded on solid ground but on quick sand and must fail.
10. Additionally the explanation given for the delay in filing the memorandum of appeal is not satisfactory or plausible at all.

The sole reason given by the applicant for the delay is that 'it arose in the context of court directed negotiations' and 'was not deliberate or contumelious'. It is noteworthy that the Applicant has not exhibited the Court order that allegedly directed the parties to negotiate settlement when the matter in the ELC court came up for mention on 12th January, 2026 and neither any evidence of the alleged court directed settlement negotiations in the period after 12th January, 2026.
11. In the premises, I find that the applicant has not sufficiently explained the delay in filing the memorandum of appeal and the record of appeal within the period stipulated by the Rules. Accordingly, the Notice of Motion application dated 10th February, 2026 is devoid of any merits and is hereby dismissed with no orders as to costs, the respondent having not filed a response in opposition to the said application.

DATED AND DELIVERED AT NAKURU THIS 8TH DAY OF MAY, 2026.



MURUNGI B. KAIRARIA

JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR

