

**IN THE HIGH COURT OF KENYA AT NAIROBI
(MILIMANI COMMERCIAL & TAX DIVISION)**

MISCELLANEOUS CIVIL APPLICATION NO. 430 OF 2026

IN THE MATTER OF THE COMPANIES ACT, 2015

AND

IN THE MATTER OF AN APPLICATION BY

**SIANA PROPERTIES LIMITED 1ST
APPLICANT**

AND

**PRIME BANK LIMITED 2ND
APPLICANT**

RULING

Introduction

1. Before this Court is the Notice of Motion dated 13th April 2026, brought under Sections 2 and 3 of the Judicature Act, Sections 885(1)(a), 888(1)(a) and (b) of the Companies Act, 2015, and all enabling provisions of the law. The Applicants seek, inter alia:

- i. Extension of time for registration of an **All-Asset Debenture dated 3rd December 2025**, and a **Charge dated 15th December 2025 over Land**

Title No. Nairobi/Block 218/280, created by the 1st Applicant in favour of the 2nd Applicant.

- ii. Leave for the said instruments to be registered out of time.
 - iii. A declaration that upon registration within the extended period, the instruments shall be deemed to have been registered in compliance with the Companies Act.
2. The Application is supported by the Affidavit of Liza Mutungi, Advocate, sworn on 13th April 2026.
 3. It is deponed that the 2nd Applicant advanced a facility of KShs. 260,000,000 to the 1st Applicant, secured by an All Asset Debenture and a Charge over the suit property.
 4. It is further deponed that the statutory period of thirty (30) days prescribed under Section 885(1)(a) of the Companies Act, 2015, for registration of the Debenture and Charge elapsed before registration could be completed.
 5. The Applicant contends that the delay was inadvertent and not deliberate since it arose due to extended processing timelines on the *ArdhiSasa* platform at the Lands Registry, and delays in stamping of the Debenture, notwithstanding timely payment of stamp duty.

6. The Applicant further asserts that no prejudice will be occasioned to shareholders or creditors of the 1st Applicant, while failure to register would severely prejudice the 2nd Applicant by depriving it of its statutory security protections.

Analysis and Determination

7. The Court has considered the application together with the annexures. The sole issue for determination is: ***Whether the Court should exercise its discretion under Section 888 of the Companies Act, 2015, to extend time for registration of the Debenture and Charge.***

8. Section 885(1)(a) of the Companies Act, 2015 Requires a company to deliver to the Registrar particulars of a charge within thirty (30) days of its creation.

9. Section 888(1)(a) and (b) of the Companies Act, 2015 Empowers the Court, on application, to extend the time for registration of a charge; and to direct that registration be effected notwithstanding the lapse of time, if the failure to register was accidental, due to inadvertence, or for other sufficient cause, provided no injustice will be caused.

10. The discretionary power donated by Section 888 of the Companies Act is intended to mitigate the harsh consequences that may arise from a rigid application of statutory timelines, particularly where the omission to register is not tainted by fraud or bad faith.
11. Courts have consistently held that the purpose of registration of charges is to give notice to third parties, and not to invalidate genuine commercial transactions.
12. In **Re: Einco Holdings Limited [2018] eKLR**, the Court held that extension of time should be granted where delay is satisfactorily explained and no prejudice is shown to creditors or shareholders.
13. Similarly, in **Diamond Trust Bank Kenya Limited v Registrar of Companies & another [2019] eKLR**, the Court emphasized that where failure to register was inadvertent and the rights of third parties are not affected, the court should lean towards sustaining the security.
14. In the present case, the explanation for delay is plausible and supported by evidence relating to registry processes. The Charge has already been registered at the Lands Registry, demonstrating the Applicants' intention to perfect the security.

15. No creditor, contributory, or other interested party has come forward to claim prejudice, and the extension sought is modest and reasonable. The Court is therefore satisfied that the Applicants have met the threshold under Section 888 of the Companies Act, 2015.
16. In the exercise of the Court's discretionary powers, and for the reasons stated above, the Notice of Motion dated 13th April 2026 is found to be meritorious.
17. Accordingly, the Court makes the following orders:
 - i. The time is hereby extended for the registration of the All Asset Debenture dated 3rd December 2025 and the Charge dated 15th December 2025 over Land Title Number NAIROBI/BLOCK218/280, created by Siana Properties Limited in favour of Prime Bank Limited.
 - ii. The Registrar of Companies is directed to register the said Debenture and Charge out of time within thirty (30) days from the date hereof, or such other period as may be administratively required.
 - iii. Upon such registration, the Debenture and Charge shall be deemed to have been duly registered in compliance with the Companies Act, 2015.
 - iv. There shall be no order as to costs.

18. It is so ordered.

**DATED, SIGNED, AND DELIVERED AT NAIROBI
THIS 18TH DAY OF APRIL 2026**

A handwritten signature in blue ink, appearing to read 'Moses Ado', is written over a light-colored rectangular background.

HON. MR. JUSTICE MOSES ADO
Judge of the High Court