



**Tuei & another v Towett (Civil Application E029 of 2026)
[2026] KECA 881 (KLR) (8 May 2026) (Ruling)**

Neutral citation: [2026] KECA 881 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPLICATION E029 OF 2026**

MB KIARARIA, JA

MAY 8, 2026

BETWEEN

REUBEN KIPRONO TUEI 1ST APPLICANT

HANNA TUEI 2ND APPLICANT

AND

HENRY TOWETT RESPONDENT

(An application seeking leave to lodge the notice of appeal out of time from the ruling of the High Court at Bomet (Julius Ng'arng'ar, J.) dated 13th November 2025 in Succession Cause No. 51 of 2021)

RULING

1. By a Notice of Motion application dated 10th February, 2026 the Applicants invoke the jurisdiction of Court to extend time for filing a notice of appeal against the decision of J.K N'garn'gar J made on 13th November, 2025 in Bomet H.C.SUCC. Cause No. E51 of 2021 in which he allowed the Respondent's objection dated 16th April 2024.
2. The applicants are aggrieved by that decision and desire to appeal against it to the Court of Appeal. They have brought the current application for extension of time to file the Notice of Appeal because the notice lodged was filed outside fourteen [14] days period after the 13th November, 2025 when the decision sought to be appealed was rendered . By dint of rule 77 [2] of the Court of Appeal Rules they ought to have filed their Notice of appeal by 27th November 2025. They filed the notice of appeal on Christmas day [25th December, 2025] which was twenty eight or so days late. They did this without first seeking extension of time which renders that Notice of Appeal incompetent and invalid.
3. Realising their error they brought the current application for extension of time under certificate of urgency on 10th February, 2026. Directions were given on 2nd March 2026 that the application be



served and responded to. Thereafter the parties were to file written submissions and the application queued for hearing on a date to be fixed by the Court.

4. The application came up for case management before the Deputy Registrar of this Court on 18th March 2026. The parties were absent and had not complied with the directions given by the Court on 23/2026. Two directions were given on that day as follows: 1] Parties to comply with directions given on 20/2026 in its entirety. 2] Application be queued before a Single Judge.
5. Thereafter the application was fixed for hearing on 23rd April 2026 and a hearing Notice served upon the parties electronically on 8th April 2026 at 11.44 a.m through email sent to koechgideon@outlook.com, Koech.gideon@ outlook.com, Tengekyonkoskeco.advocates @ yahoo.com.
6. Crucially the hearing notice informed the parties that this application for extension of time will be disposed of “By Way Of Written Submissions” [no appearance of counsel/parties]. In addition the Applicant and respondent were reminded to comply with the directions issued in regards to service and filing of submissions before the hearing date. Ultimately the parties were notified that the application would be heard on Thursday 23rd April, 2026 at 9.00 A.M by a Single Judge Bench constituted by the President of the Court of Appeal and urged to comply to the Court serve them better and expeditiously.
7. The parties did not heed this plea. When the application came up for hearing before me on 23rd April, 2026 the parties had not complied with the Court’s directions. In particular none of the parties had filed written submissions.
8. In light of the parties’ failure to comply with the directions of the Court, I dismiss the application dated 10th February 2026 under rule 58 of the Court of Appeal Rules with no orders as to costs.

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

MURUNGI B. KAIRARIA

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JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR

