



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC MISC. APPLICATION NO. 42 OF 2019

MARGARET MUKOMUGA.....APPLICANT

VERSUS

SAMUEL KINGIRWA AMURU1ST RESPONDENT

CIABAIMPWI AMURU2ND RESPONDENT

KABERIA AMURU 3RD RESPONDENT

LAND ADJUDICATION OFFICER TIGANIA DISTRICT....4TH RESPONDENT

HON. ATTORNEY GENERAL..... 5TH RESPONDENT

RULING

1. The application dated 15.8.2019 was seeking orders that;

(a) The court allows the applicant to file an appeal out of time in respect of the Principal Magistrate Tigania in Tigania PMCC no. 129 of 2013 dated 20th December 2018.

(b) Costs of the application

2. The grounds in support of the application were that;

(i) The applicant's advocate applied for proceedings and ruling upon delivery but the same was not recorded.

(ii) That after a follow up the proceedings and the ruling were not ready and he made a written application on 25.2.2019.

(iii) The proceedings and the ruling were also paid for but were released very late.

3. In support of the application the applicant had sworn an affidavit where she averred that the learned trial magistrate had made his ruling on the matter on 20.12.2018 and that she had instructed her advocate that if the ruling was not in her favour she would appeal. She also averred that her advocate applied for the proceedings and judgment orally upon the delivery of the ruling and continued checking the same and found out they were not ready by the time of appeal. This prompted the applicant through her advocate to write to court on 25.2.2019 whereby the said proceedings and judgment were supplied late.

4. I find that service of the documents has not been challenged by 1st – 3rd respondents. The other respondents have not opposed the application.

5. In the circumstances I hereby allow the said application on the following terms:

(i) The memorandum of appeal to be filed and served within 14 days failure to which the orders granted herein shall lapse.

(ii) Applicant is to meet the costs of this application.

(iii) The orders herein to be extracted and placed in the appeal file.

6. This matter is marked as closed

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 27TH NOVEMBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Ms. Otieno for applicant

Otieno C. holding brief for Nyamu Nyaga for 1st – 3rd respondent

Kieti for 4th & 5th respondents

HON. LUCY. N. MBUGUA

ELC JUDGE