

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC MISC. 17 OF 2019

JOSEPH M'MUGAMBIAPPLICANT

VERSUS

ISAIAH MBAABU1ST RESPONDENT

SAMSON MIRITI MBAABU 2ND RESPONDENT

RULING

1. Vide the application dated 29.3.2019, applicant is seeking orders of extension of time to file a memorandum of appeal. Judgment in Maua CMCC no. 34/12 was apparently delivered on 28.12.2018 in favour of the plaintiff/respondent but applicant/defendant was aggrieved by the decision and he desires to appeal.

2. He avers that he was unable to file the memorandum of appeal on time because he did not get copies of the proceedings and judgment from the lower court in good time.

3. Respondent avers that the application is not merited as the applicant did not obtain a certificate of delay and that there are no cogent reasons as to why an appeal was not filed within the stipulated time.

4. I have weighed all the arguments raised herein. I find that applicant has not demonstrated to this court that he had requested for proceedings and judgment in the lower court. Nevertheless, I have taken into account the fact that applicant has now prepared a memorandum of appeal. It is only fair and just that he be given an opportunity to seek redress through the hierarchal systems of the court.

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

6. The memorandum of appeal is to be filed and served within 14 days from today failure to which the leave granted to extend time shall lapse.

7. The applicant is condemned to pay costs of this application.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 12TH DAY OF NOVEMBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Thangicia holding brief for Omari for applicant

Karuti holding brief for M. Kariuki for respondent

Applicant

2nd respondent

HON. LUCY. N. MBUGUA

ELC JUDGE