

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC MISC NO 8 OF 2018

PATRICK GITONGA M'IKIARA.....APPLICANT

VERSUS

RUTHSON MANGATI M'IKIARA.....1ST RESPONDENT

HUDSON MURIIRA M'IKIARA.....2ND RESPONDENT

SOLOMON MBAABU M'IKIARA.....3RD RESPONDENT

MOSES KOOME.....4TH RESPONDENT

JAPHET MURIRA M'IKIARA.....5TH RESPONDENT

MOSES NDUBI alias JOMO M'IKIARA.....6TH RESPONDENT

RULING

1. Vide the application of 9.3.2018, applicant is seeking leave to appeal out of time against the judgment and decree in Meru CMCC No. 693 of 2002 delivered on 18.10.2017. Applicant avers that proceedings were not availed on time.
2. The respondent has filed grounds of opposition stating that there was inordinate delay and that application is not merited.
3. The application was argued orally on 26.4.2018. I have weighed all the arguments herein. I find that applicant applied for copies of the Judgment on 23.10.2017 which is five days after the judgment was delivered on 18.10.2017. The certificate of delay also confirms that indeed the application of proceedings had been made and that such proceedings were not supplied until 2.3.2018. The memorandum of appeal is dated 9.3.2018.
4. I find that applicant has demonstrated that he was vigilant and made his application to get proceedings promptly.
5. In the circumstances I allow the application in the following terms;
 - (a) The applicant is hereby granted leave to file and serve the appeal out of time and not later than 7 days from today failure to which the application will stand as dismissed.
 - (b) Costs in the cause.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 23RD DAY OF MAY, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

HON. LUCY. N. MBUGUA

ELC JUDGE