



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kaimugul v Kaimugul (Civil Application E027 of 2025)  
[2025] KECA 1043 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KECA 1043 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT ELDORET  
CIVIL APPLICATION E027 OF 2025**

**JM MATIVO, J  
JUNE 12, 2025**

**BETWEEN**

**CHEPKEITANY KAIMUGUL ..... APPLICANT**

**AND**

**TAMUREI KOBILO KAIMUGUL ..... RESPONDENT**

*(An application for extension of time against the ruling of the Environment and Land Court of Kenya at Eldoret (J. Onyango, J.) dated 20th February, 2025 in ELC No. 9 of 2021(O.S))*

**RULING**

1. Vide an application dated April 2, 2025 brought under sections 3, & 3A of the [Appellate Jurisdiction Act](#), Rule 4 of the Court of Appeal Rules 2022, the applicant prays for extension of time within which to file and serve Notice of Appeal and subsequently the record of appeal against the ruling and orders delivered by J. Onyango, J dated February 20, 2025 in Eldoret ELC No. 9 of 2021(O.S), Kamurei Kobilobilo Chepkeitany vs Chepkeitany Kaimugul.
2. The application is premised on the grounds listed on the face of the application and the applicant's supporting affidavit sworn on April 2, 2025. The grounds in support of the application are that:-
  - (a) the applicant who is of an advanced age was unrepresented and he was therefore not aware there was a prescribed period upon which to file a notice of appeal to the Court of Appeal;
  - (b) the applicant was also taken ill shortly after the delivery of the Judgment ;
  - (c) the delay in lodging the appeal is not inordinate and the same is excusable;
  - (d) the intended appeal is arguable and has high chances of success;
  - (e) the application has been brought promptly without unreasonable delay;



- (f) no prejudice will be occasioned on the respondent should the orders sought be granted.
3. The application is opposed vide replying affidavit sworn on May 26, 2025 by the respondent. He avers that the contention that the applicant did not know the law on timelines cannot be an excuse and the claim that the applicant fell ill just after the ruling was delivered cannot be sufficient basis to warrant the grant of orders sought.
  4. On 9 June 2025 at 14.35 AM the Deputy Registrar of this Court sent out hearing notice via e-mail informing counsel/the parties herein that the instant application would be heard by way of written submissions and there shall be no appearance of counsel in court or via video link. In that regard, the applicant and the respondent were reminded to comply with the Court's directions relating to service and filing of submissions before the hearing date.
  5. Today 12 June 2025 at 9.00AM when the application came up for hearing before me, and as at the time of writing this ruling, the respondent had filed submissions dated 10 June 2025. However, the applicant had not complied with the Court's directions as per the hearing notice. The directions were communicated to the parties respective e-mails: nathan kirui <cheruiyotkiruicompany@gmail.com>, Javan Kipnyekwei nyekweiandco.advocates@gmail.com>.
  6. Rule 58 of the Court of Appeal Rules, 2022 stipulates as follows:
    - “1. If, on any day fixed for the hearing of an application, the applicant does not appear or comply with directions, the application may be dismissed, unless the Court sees fit to adjourn the hearing: Provided that the Court may order that an application may be heard by way of written submissions and where parties have filed written submissions, the court shall consider the submissions.”
  7. Pursuant to the above rule, and being duly satisfied that the parties were duly served as herein above stated, and despite being served, the applicant has failed to comply with the Court's directions, I hereby dismiss the instant application in accordance with Rule 58 (1) of this Court's Rules for non-compliance with the directions of the Court issued on June 9, 2025.
  8. Orders accordingly.

**DATED AND DELIVERED AT ELDORET THIS 12<sup>TH</sup> DAY OF JUNE, 2025.**

**J. MATIVO**

**JUDGE OF APPEAL**

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

Signed.

**DEPUTY REGISTRAR.**

