



REPUBLIC OF KENYA



**KENYA LAW**  
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**M’Njara & another v Muthoni (Civil Appeal (Application)  
E193 of 2024) [2025] KECA 1416 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KECA 1416 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CIVIL APPEAL (APPLICATION) E193 OF 2024  
S OLE KANTAI, JA  
JULY 31, 2025**

**BETWEEN**

**PAUL MURIUKI M’NJARA ..... 1<sup>ST</sup> APPLICANT**

**POLLY NKIROTE ..... 2<sup>ND</sup> APPLICANT**

**AND**

**HARRIET MUTHONI ..... RESPONDENT**

*(An application for leave to file Supplementary Record of Appeal from  
the Judgment of the High Court at Chuka (L. Gitari, J.) delivered  
on 23rd February, 2024 in H.C. Succ. Appeal No. E018 of 2021)*

**RULING**

1. The applicants, Paul Muriuki M’Njara and Polly Nkirote have moved the Court in a motion on notice said to be brought under rules 88 and 92(3) of the [Court of Appeal Rules](#) and all enabling provisions of law in the main:

“That the Applicant be granted leave to file a supplementary record of appeal.”

2. They say in grounds in support of the Motion and in a supporting affidavit of the 1<sup>st</sup> applicant Paul Muriuki M’Njara the judgment was delivered on 23<sup>rd</sup> February, by the High Court at Chuka (Lucy Gitari, J.); that they are aggrieved by that judgment and intend to appeal; that at the time of filing the record of appeal proceedings had not been typed despite of them having applied for the same; that the applicants have since been supplied with typed proceedings and a certificate of delay; that the applicants pray that the application be allowed and that the respondent will not be prejudiced if the application is allowed.



3. In a supporting affidavit of the 1<sup>st</sup> applicant, he depones that they lodged an appeal and filed a record of appeal on 29<sup>th</sup> October, 2024; that at the time of filing the appeal typed proceedings had not been supplied to the applicants and the typed proceedings have now been availed to them. The applicants pray that the draft supplementary record of appeal be deemed as duly filed.

4. The principles that apply in an application for extension of time were well summarized in the oft-cited case of Fakir Mohamed vs. Joseph Mugambi & 2 Others in Civil Application No. 33 of 2004 as follows:

The exercise of this court’s discretion under Rule 4 has followed a well beaten path since the stricture ‘sufficient reason’ was removed by amendment in 1985. As it is unfettered, there is no limit to the number of factors the court would consider so long as they are relevant. The period of delay, the reason for the delay, (possibly) the chances of the appeal succeeding if application is granted, the degree of prejudice to the respondent if the application is granted, the effect of the delay on public administration, the importance of compliance with time limits, the resources of the parties, whether the matter raises issues of public importance – are all relevant but not exhaustive factors: See *Mutiso vs. Mwangi* Civil Application No. Nai. 255 of 1997 (UR), *Mwangi vs. Kenya Airways Limited* [2003] KLR 486, *Major Joseph Mwereri Igweta vs. Mulika M’Ethare and Attorney General*, Civil Application No. Nai 8/2000 (UR) and *Murai vs. Wainana* (No. 4) [1982] KLR 38.”

5. I note that judgment of the High Court was delivered on 23<sup>rd</sup> February, 2024. The applicants applied and were issued with a certificate of delay dated 9<sup>th</sup> March, 2024. There is letter bespeaking proceedings dated 14<sup>th</sup> October, 2024.

6. I am satisfied on the whole that the applicants are deserving of my exercise of discretion in their favour. I allow the Motion. The supplementary record of appeal is deemed as duly filed. Costs of the Motion will be in the appeal.

**DATED AND DELIVERED AT NYERI THIS 31<sup>ST</sup> DAY OF JULY, 2025.**

**S. OLE KANTAI**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

