



Karithi v Karumo Technical Training Institute (Civil Application E027 of 2025) [2025] KECA 1260 (KLR) (11 July 2025) (Ruling)

Neutral citation: [2025] KECA 1260 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPLICATION E027 OF 2025
S OLE KANTAI, JA
JULY 11, 2025**

BETWEEN

MITHIKA GEORGE KARITHI APPLICANT

AND

KARUMO TECHNICAL TRAINING INSTITUTE RESPONDENT

(An application for extension of time to file an appeal against the Judgment of the Employment and Labour Relations Court at Meru (O.N. Makau, J.) delivered on 9th February, 2024 in E.L.R.C. Cause No. 20 of 2021.)

RULING

1. The applicant Mithika George Karithi applies under rule 4 of the Court of Appeal Rules for leave to appeal out of time against the judgment in Meru ELRC No. E027 of 2021 delivered on 9th February, 2024. In grounds in support of the Motion and in his supporting affidavit he says that he filed a suit where judgment was delivered dismissing the suit; that he was acting in person and that he filed an application for review which was dismissed in a ruling delivered on 20th December, 2024 by which time for appealing had elapsed and that he wishes to file an appeal against the judgment. He says further that his intended appeal has high chances of success as shown in a draft Memorandum of Appeal attached to the application; that he will suffer great prejudice if leave to appeal out of time is not granted.
2. I have seen the judgment of Onesmus N. Makau, J. which involved an employment dispute where the Judge dismissed the applicant's suit on 9th February, 2024.
3. I have also seen draft Memorandum of Appeal where the applicant raises 6 grounds of appeal questioning various findings of the Judge.



- 4. I have not seen any replying affidavit from the respondent and I have noted the hearing notice served on 24th June, 2025 at 4.00 p.m. where parties were informed of the hearing date and required to file written submissions. I have not seen any from either side.
- 5. The principles that apply in an application like this one were well captured in the oft-cited case of *Leo Sila Mutiso v Rose Hellen Wangari Mwangi* [1999] 2 EA 231 as follows:

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well stated that in general the matters which this Court takes into account in deciding whether to grant an extension of time, are first, the length of the delay, secondly, the reason for the delay, thirdly (possibly) the chances of the appeal succeeding if the application is granted, and fourthly, the degree of prejudice to the respondent if the application is granted.”
- 6. The applicant’s suit was dismissed in a judgment delivered on 9th February, 2024. He was acting in person. He decided to apply for review but his application was dismissed by which time the time for appealing had elapsed. The application before me is dated 4th March, 2025. I do not think there is inordinate delay. I have looked at draft Memorandum of Appeal and I think that there are reasonable grounds of appeal raised. I think on the whole that this is an application where I should exercise my discretion in favour of the applicant. I allow the Motion. Let the applicant file appeal within twenty one (21) days of today. I make no order on costs.

DATED AND DELIVERED AT NYERI THIS 11TH DAY OF JULY, 2025.

S. OLE KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the origina

Signed

DEPUTY REGISTRAR

