



**Oloo ((Suing as Administrator of the Estate of John Bruno Oloo)) v
Registered Trustees Trinity Fellowship & another (Civil Application
E022 of 2024) [2024] KECA 650 (KLR) (7 June 2024) (Ruling)**

Neutral citation: [2024] KECA 650 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPLICATION E022 OF 2024
HA OMONDI, JA
JUNE 7, 2024**

BETWEEN

**IAN DAVID OLOO APPLICANT
(SUING AS ADMINISTRATOR OF THE ESTATE OF JOHN BRUNO OLOO)**

AND

**REGISTERED TRUSTEES TRINITY FELLOWSHIP 1ST RESPONDENT
NATIONAL LAND COMMISSION 2ND RESPONDENT**

(Being an application seeking extension of time limited to serve a Notice of Appeal and a letter bespeaking proceedings from the judgment and decree of the Environment and Land Court at Kisumu (E. Asati, J.) dated 7th December 2023 in ELC Case 325 of 2017)

RULING

1. The application before this Court dated 16th February 2024 brought pursuant to rule 4 Court of Appeal Rules, 2022; and Article 159(2)(d) of *the Constitution* of Kenya, is seeking that time within which the applicant was required serve the Notice of Appeal and letter bespeaking typed proceedings, both dated 13th of December 2023, be extended; and that once this order is granted, then the two documents which were served on the respondents on 2nd February 2024, be deemed as properly filed.
2. According to the applicant, he had filed a suit in ELC No. 325 of 2017 against the respondents, and being aggrieved by the outcome delivered on 7th December 2023 (Asati, J.), a notice of appeal and letters bespeaking the proceedings, both dated 13th December 2023, were filed within time. However, it was not until 31st January 2024, that the Notice was endorsed by the Kisumu, Deputy Registrar of the Environment and Land Court as having been properly lodged; and on 2nd February 2024, the said documents were served on the respondents.



- 3. It is explained that the delay in service of the documents was due to the fact that counsel’s office remained closed for the December holidays; and only resumed on 15th January, when upon a follow up on the status of the matter revealed the non- action, and eventually counsel obtained an endorsed copy on 2nd February 2024.
- 4. The applicant urges this Court to find that the delay was minimal, inadvertent, and was not intended to obstruct justice; and the applicant was diligent in ensuring that service of the two documents was effected immediately, albeit out of time; and no loss or prejudice will be occasioned in granting the prayer.
- 5. There was no response filed by the respondents; and neither of the parties filed written submissions, so that for all practical purposes, the application remains unprosecuted. In what was otherwise a well explained situation, the application is dismissed for want of prosecution. I award no costs.

DATED AND DELIVERED AT KISUMU THIS 7TH DAY OF JUNE, 2024.

H. A. OMONDI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

