



REPUBLIC OF KENYA



KENYA LAW
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**Multiple Hauliers (E.A.) Limited v Kenya Wildlife Services (Civil
Application E168 of 2023) [2024] KECA 769 (KLR) (5 July 2024) (Ruling)**

Neutral citation: [2024] KECA 769 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E168 OF 2023**

DK MUSINGA, JA

JULY 5, 2024

BETWEEN

MULTIPLE HAULIERS (E.A.) LIMITED APPLICANT

AND

KENYA WILDLIFE SERVICES RESPONDENT

*(An application for extension of time to file an appeal out of time
arising from the Judgment of the High Court of Kenya at Nairobi
(C. Meoli, J.) dated 16th March 2023 in HCCC No. 583 of 2010)*

RULING

1. The applicant's motion dated 25th April 2023 seeks leave to appeal from the judgment of Meoli, J. delivered on 16th March 2023 in HCCC No. 583 of 2020. The application also contains a prayer for stay of execution of the said judgment, which cannot be considered by a single judge.
2. The affidavit in support of the application was sworn by Clive Critchlaw, the applicant's General Manager- Operations and Customer Relations. He stated that the delay in filing a notice of appeal was the convoluted corporate process of issuing instructions as the applicant company was undergoing ownership changes which slowed down its administrative functions. The applicant had filed a material damage claim of Kshs.10,882,6000 against the respondent, which was dismissed. The applicant was aggrieved by that judgment and wishes to exercise its constitutional right of appeal.
3. The principles that guide this Court in an application of this nature are well settled. The Court has to consider, inter alia, the length of the delay; the reason for the delay; the chances of the appeal succeeding if the application is granted; and the degree of prejudice to the respondent if the application is allowed. See Nyaigwa Farmers Co-operative Society Limited vs Ibrahim Nyambare & 3 Others [2016] eKLR.



4. The impugned judgment was delivered on 16th March 2023 and the application was filed on 3rd May 2023. The delay is not inordinate, and in my view, it has been well explained. And in any event, the application is not opposed since the respondent did not file any replying affidavit or submissions.
5. Having looked at the draft memorandum of appeal, the intended appeal is not frivolous. I also don't think that the respondent will be prejudiced if this application is granted.
6. Consequently, I grant leave to the applicant to appeal out of time. The notice of appeal should be filed and served within fourteen (14) days from the date of delivery of this ruling. The record of appeal should be filed and served within thirty (30) days from the date of filing of the notice of appeal. I make no order as to costs.

DATED AND DELIVERED AT NAIROBI THIS 5TH DAY OF JULY, 2024.

D. K. MUSINGA, (P)

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

