



IN THE COURT OF APPEAL

AT MOMBASA

(CORAM: DR. K. I. LAIBUTA, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. 35 OF 2021

BETWEEN

BINTOMARI JUMAA GOGO

HAMISI AMRI MAZU (*Suing*

as personal representatives of the

Estate of Amri Mchoro Mwamuri

***(Deceased)*.....APPLICANTS**

AND

MATANO MWASIA.....1ST RESPONDENT

IBRAHIM NJOROGE KIMANI.....2ND RESPONDENT

BETINA MALTHER.....3RD RESPONDENT

SWAN ISLAND LIMITED.....4TH RESPONDENT

MOSES KABERI KARIUKI.....5TH RESPONDENT

DICKSON OTIENO AKENO.....6TH RESPONDENT

CHRISTINE MUMBI MIANO.....7TH RESPONDENT

(Being an application for extension of time to file an Appeal out of time, against the Ruling of Justice C. K. Yano, delivered on 16th July, 2020

in Mombasa Environment and Land Court Case No. 120 of 2007 (O.S))

RULING

Background

Before me is a Notice of Motion dated 18th May 2021 made under Rule 4 of the Court of Appeal Rules in which the Applicants, suing as personal representatives of the estate of Amri Nchoro Mwamuri, seek extension of time pursuant to Rule 4 to file and serve a Notice of Appeal and Record of Appeal from the Ruling of Hon. Justice C. K. Yano delivered on 16th July 2020 in Mombasa Environment and Land Court Case No. 120 of 2007 (OS). The application has been duly served on the four counsel for the Respondents. Today’s hearing was notified to the parties by email on 1st July 2021 in which the Deputy Registrar directed that –

(a) the Applicant do file and serve online written submissions and any other documents if they had not done so within 2 days (by 3rd July 2021);

(b) the Respondents do file and serve all parties with written submissions within 2 days from the date of service (by 5th July 2021); and

(c) all documents be filed latest 24 hours before the date of hearing scheduled for today 6th July 2021 at 9.00Am.

There is nothing on record to show that service of the application has been served on all the parties as directed, with the exception of M/s. Kiarie Kariuki and Co. Advocates, who have acknowledged service, but who, by their email of 2nd July 2021, indicated that they would not be in a position to file their submissions due to the short time allowed.

In order to give the parties a fair opportunity to be served with the application, file their replies and written submissions, and be heard, I direct that the parties do comply with the orders of the Deputy Registrar and, in particular –

(a) the Applicants do file their affidavit of service of the application and all accompanying documents, including their written submissions, within seven days from the date hereof;

(b) the respondents do file and serve their respective replying affidavits (if they so wish) together with their written submission within 7 days from the date of service;

(c) the Applicants' Notice of Motion dated 18th May 2021 be listed for hearing on a priority basis;

(d) there be no orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 9TH DAY OF JULY 2021

DR. K. I. LAIBUTA

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR