



IN THE COURT OF APPEAL

AT NYERI

(CORAM: KANTAI, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. 119 OF 2018

BETWEEN

EMBU GATURI HOUSING CO-OP SOCIETY.....APPLICANT

AND

WAMAE NJENGA.....1ST RESPONDENT

SIMON NJOGU MUTURI2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

(Being an application to file an appeal out of time from the Judgment of the High Court of Kenya at Embu (F. Muchemi, J.) dated 22nd February, 2017

in

HC. C.A. No. 22 of 2014)

RULING

I perused the Certificate of Urgency, Motion dated 18th September, 2018 and the accompanying affidavit of **Sylvester N. Muruatetu** and was not satisfied that the Motion was urgent. I declined to satisfy the Motion as urgent. That was on 24th September, 2018 when I served at the Court of Appeal in Nyeri.

By a letter dated 7th October, 2020 **M/S Muma & Kanjama, Advocates**, have rehashed the journey travelled by the applicant in the matter and pray that the President of the Court of Appeal be pleased to appoint a single Judge to hear the application.

My understanding of the contents and prayer in that letter is that I hear the parties *inter partes* as provided by **rule 47(5)** of the **Rules of this Court**.

On 19th October, 2020 I asked the Deputy Registrar of this Court in view of the prevailing COVID-19 pandemic to request the parties to file on-line 3 page submissions for my consideration. The applicant has filed submissions which run into 6 pages, despite the said requirement, and I am of the view that lawyers should comply with orders made for there is a reason why courts make orders.

I do not know why the application which was filed in September, 2018 (more than 2 years ago) has not been heard. I had on 24th September, 2018 ordered that the Motion be listed by the Court Registry in the usual way. I am aware that the Court of Appeal in Nyeri and other stations outside Nairobi stopped being functional early this year for various reasons. It is possible that this has contributed to applications like this one, and appeals, not being reached.

The Motion dated 18th September, 2018 asked that the appeal be deemed as duly filed. That application is not now before me and has to be listed for hearing.

Considering all the reasons given in the letter dated 7th October, 2020 I certify the Motion as urgent. Let it be listed for hearing accordingly.

Dated and dated at Nairobi this 6th day of November, 2020.

S. ole KANTAI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR