



IN THE COURT OF APPEAL

AT ELDORET

(CORAM: ODEK.JA. (IN CHAMBERS))

CIVIL APPEAL(APPLICATION) NO. 99 OF 2019 (UR 66/2019)

BETWEEN

GEORGE OWUOR OLAKA.....APPLICANT

AND

PAUL K. MURUGA.....RESPONDENT

(Application to seek leave to file record & memorandum of appeal out of time from the ruling of the

High Court of Kenya at Kitale (**Mwangi J**) dated 29th May, 2017 *in ELC NO. 41 OF 2008*)

RULING

Before me is a Notice of Motion dated 15th August, 2019 seeking extension of time within which to file the Record and Memorandum of Appeal out of time.

The applicant filed a Notice of Appeal on 9th June, 2017 and which notice was filed within time. However, the Record of Appeal has not been filed today. In support of the instant application, it is urged that the delay in filing the Record of Appeal is due to delay in obtaining certified proceedings and judgment of the High Court.

A Certificate of Delay dated 2nd May, 2019 has been attached to the application. In the certificate, the period between 9th June, 2017 and 12th April, 2019 is excluded in the computation of time.

The instant application for extension of time was filed on 15th August, 2019. I have considered the application before me and the reason for delay that has been advanced.

The applicant has not explained the delay between 12th April, 2019 when the proceedings were ready and 15th August, 2019 when the instant application was filed.

In the absence of any explanation or reason for delay after the certificate of delay, I find that the instant application was filed after a delay that has not been explained.

Accordingly, the Notice of Motion dated 15th August, 2019 be and is hereby dismissed with costs. The applicant has not given any reason for delay to enable me exercise my discretion to extend time.

DATED at Eldoret this 14th day of October, 2019.

OTIENO ODEK

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR