



IN THE COURT OF APPEAL

AT NYERI

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

CIVIL APPLICATION NO. NYR. 8 OF 2013

JANE CATHERINE K. KARANI.....APPLICANT

VERSUS

DANIEL MURIITHI WACHIRA.....RESPONDENT

(Application for extension of time to file and serve the Notice of Appeal, Memorandum of Appeal and Record of Appeal out of time against the Judgment of the High Court of Kenya at Embu (Ong'undi, J.)

dated 2nd February, 2013

in

H.C.C.C. No. 69 of 2010)

RULING

The Notice of Motion dated 29th May, 2013 is brought by Jane Catherine Karani (*applicant*), who was the respondent in **Embu Civil Appeal No. 69 of 2010**. It is brought under **Rule 4** of this **Court's Rules**. The applicant is seeking for extension of time to file and serve the Notice of Appeal, Memorandum and Record of Appeal out of time. The application and hearing notice were duly served upon the respondent who did not appear during the hearing of this application. The application is supported by the applicant's affidavit sworn on 29th May, 2013. She has annexed a copy of judgment that was delivered on 2nd May, 2013 as well as the cause list for the daily matters that were

listed before the High Court, Embu on 2nd May, 2013. The Civil Appeal No 69 of 2010 was not listed.

The applicant contends that when she appeared for the judgment, she was informed that the court was dealing with criminal matters on that day. Since the matter was not listed she left the court and alerted her advocate that the matter was not proceeding. However it would appear the judgment was delivered the same day in the absence of the applicant and counsel. Their absence in court was simply because the matter was not listed and there was indication that the court was dealing with criminal matters.

I have considered this application which is not opposed; the applicant was late in filing the Notice of Appeal for about one month. The reasons for the lateness are well explained and supported by the cause

list of 2nd May, 2013, that shows the matter was not listed. I am also satisfied that the enlargement of time will not cause the respondent any prejudice.

Accordingly, the applicant is given 14 days within which to file and serve a Notice of Appeal. Costs of this application shall be in the appeal.

Dated and delivered at Nyeri this 1st day of July, 2013.

M.K. KOOME

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR