



REPUBLIC OF KENYA



KENYA LAW

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Karungaru (Suing as the personal representative of the estate of Geoffrey Karungaru Kabua) v Mills & another (Application 7 of 2016) [2017] KESC 20 (KLR) (24 March 2017) (Ruling)

Wilson Ngatia Karungaru (Suing as the personal representative of the estate of Geoffrey Karungaru Kabua) v Mbau Saw Mills & another [2017] eKLR

Neutral citation: [2017] KESC 20 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
APPLICATION 7 OF 2016
MK IBRAHIM & I LENAOLA, SCJJ
MARCH 24, 2017**

BETWEEN

**WILSON NGATIA KARUNGARU APPLICANT
SUING AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF
GEOFFREY KARUNGARU KABUA**

AND

**MBAU SAW MILLS 1ST RESPONDENT
HON. ATTORNEY GENERAL 2ND RESPONDENT**

(Being an application for extension of time to file an application for Review of the Ruling of the Court of Appeal denying leave to appeal to the Supreme Court in Civil Appl. Sup. No. 2 of 2015 (Waki, Nambuye & Kiage JJ.A), delivered on 2nd December, 2015)

RULING

1. Upon perusing the Notice of Motion application dated, 19th April, 2016, and filed on 20th April, 2016, for extension of time to file an application for review and for certification that the proposed appeal raises questions of general public interest and importance and for grant of leave to file a Notice of Appeal out of time; and
2. Upon reading the applicant's affidavit sworn by Wilson Ngatia on 19th April, 2016, and the 1st respondent replying affidavit sworn by Eliud Matu Wamae on 23rd June, 2016; and
3. Upon considering the applicant's argument that the Court of Appeal Ruling was procured later than anticipated thus delaying the process of lodging the review application, and the 1st respondent contending that the delay has not been explained and is in any event inordinate.



4. And having considered the application, by a unanimous decision of this Bench, we make the following Orders under Section 23(2)(b) of the Supreme Court Act, and Rule 21 and 23 of the Supreme Court Rules, 2012(as amended).

Orders	Reasons
<p>a. The Notice of Motion Application dated 19th April, 2016 is hereby dismissed with costs as costs must follow the event.</p>	<p>a. No compelling reason has been presented to the Court as a justification for the inordinate delay.</p> <p>b. The application falls short of the principles for extension of time laid down in the case of <i>Nicholas Kiptoo Arap Korir Salat v. The Independent Electoral and Boundaries Commission & 7 Others</i>, Appl. No. 16 of 2014, as affirmed in <i>Aviation & Allied Workers Union Kenya v. Kenya Airways Ltd & 3 Others</i>, Appl. 50 of 2014 and <i>Hassan Nyanje Charo v. Khatib Mwasbetani & 3 Others</i> [2014] eKLR.</p>

DATED AND DELIVERED AT NAIROBI THIS 24TH DAY OF MARCH, 2017.

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M.K.IBRAHIM

JUSTICE OF THE SUPREME COURT

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I. LENAOLA

JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original

REGISTRAR, SUPREME COURT

