



Muriithi (Suing as the Guardian Ad Litem of Grace Wangari Mwangi) v Mwangi (Environment and Land Appeal 85 of 2023) [2025] KEELC 3397 (KLR) (27 March 2025) (Ruling)

Neutral citation: [2025] KEELC 3397 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ENVIRONMENT AND LAND APPEAL 85 OF 2023**

**JM KAMAU, J
MARCH 27, 2025**

BETWEEN

MWANGI STEPHEN MURIITHI (SUING AS THE GUARDIAN AD LITEM OF GRACE WANGARI MWANGI) APPELLANT

AND

ELSE WAIRIMU MWANGI RESPONDENT

RULING

1. Before me is an Application dated 12/11/2024 for Orders that the court do extend time for filing the Notice of Appeal against the Judgment dated and delivered on the 17/10/2024. The grounds upon which the Application is sought are that the Applicant was only supplied with a copy of the Judgment on 11/11/2024 almost a month later through his previous Advocates and that the Application was filed expeditiously. He also says that the delay was occasioned by the failure to get a copy of the Judgment in good time for an informed opinion as to whether an Appeal would be necessary. In the Supporting Affidavit by the Applicant sworn on the 12/11/2024, Mwangi Stephen Muriithi depones that immediately after Judgement was delivered he instructed his then Advocates to apply for a copy of the judgment for perusal. That it is only upon obtaining a copy of the Judgment that he made up his mind to appeal. Again, it is only on 12/11/2024 that he applied for typed proceedings and that failure to file the Notice of Appeal was due to reasons beyond his control. To begin with, I am not convinced that the Applicant was prevented from filing the Notice of Appeal by failure to get a copy of the Judgment. As a matter of practice, once a Judgment is delivered, it is uploaded in the Kenya Law Portal within 7 Days of its delivery. Therefore, even if the court had failed or was late in availing a copy of the Judgment in this case, Counsel would still have obtained it from Kenya Law Portal. Secondly, the time given for filing of the Notice of Appeal is 14 Days according to the Appellate Jurisdiction Rules and 7 days to apply for the proceedings and a copy of the Judgment. Rule 77 of the Appellate Jurisdiction Rules:



1. A person who desires to appeal to the Court shall give Notice in writing, which Notice shall be lodged in two copies, with the Registrar of the superior Court.
 2. Each Notice under sub-rule (1) shall, subject to Rules 84 and 97, be lodged within fourteen Days after the date of the Decision against the Decision for which the Appeal is lodged.
2. This he failed to do. No reason was given for this failure. After the Judgment was uploaded in the Kenya Law Portal, even assuming it was uploaded on the 7th Day, the Applicant still had 7 more days to file a Notice of Appeal. This he did not do. I do also observe that when this Judgment was read, on the 17/10/2024 Mr. Waichungo was present in court for the Appellant while Mrs. Maina was present for the Respondent. Counsel for the Applicant at least knew that his client had lost the Appeal and heard the entire Judgment read. He would have discussed the Judgment with his client and make up their minds as to whether to appeal or not. They didn't require to wait until the hard copy was given to them. The Applicant would, therefore, only have himself to blame for the delay in filing the Notice of Appeal and also in not applying for the typed proceedings and a certified copy of the Judgment. He is, therefore, not deserving of the Orders sought. However, I will exercise my discretion and grant him 7 Days within which to file the Notice of Appeal on condition that he pays to the Respondent the sum of Kshs.15,000/= being the costs of this Application that was necessitated by his failure to act expeditiously.

RULING DATED, SIGNED AND DELIVERED AT NYANDARUA THIS 27TH DAY OF MARCH 2025.

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Eric.

Mr. Komu.....for the Appellant

Ms. Maina..... for the Respondent

