



Omido v Secretary, Board of Management Namundera Mixed Secondary School (Civil Appeal (Application) 145 of 2018) [2025] KECA 2150 (KLR) (1 December 2025) (Ruling)

Neutral citation: [2025] KECA 2150 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL (APPLICATION) 145 OF 2018
MS ASIKE-MAKHANDIA, JA
DECEMBER 1, 2025**

BETWEEN

NAPHTALLY OMIDO APPLICANT

AND

**THE SECRETARY, BOARD OF MANAGEMENT NAMUNDERA MIXED
SECONDARY SCHOOL RESPONDENT**

RULING

Being an application for extension of time to file an Appeal out of time

1. Naphtally Omido, “the applicant”, is a teacher employed by the Teachers Service Commission and is currently stationed at Namirama Girls High School, Kakamega County. Prior to his transfer to the current school, he was stationed at Namundera Mixed Secondary School. Sometimes on 22nd May, 2009, he was summoned to appear before the Board of Management “BOM” of Namundera Mixed Secondary School over disciplinary issues. Following BOM deliberations, the applicant was sanctioned by a warning letter. This was the beginning of a litany of cases between the applicant and the respondent that have morphosised into this application.
2. From the pleadings, it is common ground that the applicant filed a Judicial Review Application Number 7 of 2016 against the respondent in the High Court of Kenya at Kakamega seeking orders to quash the warning letter. During the pendency of the said Judicial review application, the applicant also filed a Miscellaneous Application No. 511 of 2016 seeking copies of BOM Meeting Minutes. The judicial review application was dismissed for being time barred while, in Miscellaneous Application No. 511 of 2016, the court directed the respondent to supply the applicant with the minutes in question.
3. On 19th June, 2017, the applicant filed a fresh petition being Kakamega Petition No. 8 of 2017 seeking similar orders as were in JR No. 7 of 2016 and Misc. Application which were dismissed for being



res judicata. Again, the Applicant filed a new suit being Kisumu Miscellaneous Application No. 12 of 2018. The same was heard and dismissed vide ruling dated 4th October, 2018. He then filed an Appeal (Civil Appeal No. 145 of 2018) against the said ruling and order in this court which appeal was however, withdrawn on 17th August, 2023. In the meantime, the applicant filed several other applications in the Employment and Labour Relations Court which were all dismissed, in one of which Radido J. declared the applicant a vexatious litigant.

4. It has been necessary to set out the history of this litigation, which is undisputed so as to contextualize the application.
5. The application seeks extension of time to file an appeal against an unspecified ruling, order, judgment and or decree. I also note that the application is vague, imprecise and ambiguous as the applicant has not indicated whether he is seeking leave to file a Notice or Record of Appeal out of time. It is also not lost on me that the applicant has been declared a vexatious litigant. This fact or claim by the respondent has not been expressly denied by the applicant, which then means it is true. There is no evidence that the said order has been discharged. If that be the case, the applicant has no capacity or competence to initiate and prosecute this application. These grounds are sufficient to dispose of this application. However, I will go further and consider the merits of the application. It is trite that while the court has discretion to extend time, however, the same must be based on honest and cogent disclosures or reasons.
6. In the instant application such reasons have been provided. All that the applicant has stated is that the delay was occasioned by factors beyond his control and because of this dispute that has been long running. I doubt whether these could pass for plausible reasons to explain the delay.
7. I am therefore satisfied that the applicant is guilty of inordinate, inexcusable and unexplained delay. By his own admission, the last ruling in this long running dispute between the parties was delivered on 17th April, 2024, that is, assuming that this is the ruling and order that the applicant intends to appeal against, while the instant application was filed on or about 24th October, 2025. The delay is therefore of over one and half years, which is inordinate and inexcusable. See *Patrick Wanyonyi Khaemba v TSC, BOM, Kapletingi Mixed Day Secondary School & Francis Tanui* (Civil Application 102 of 2019) [2019] KECA 112 (KLR) (28 November 2019) (Ruling).
8. The respondent has alluded to the fact that it will suffer irreparable loss and prejudice if the application was to be allowed. It is now close to ten years since litigation between the parties commenced. According to the respondent, the applicant has dragged it from one court to another over the same dispute. This is actually self evident from the record. I am not in doubt at all and as correctly urged by the respondent that granting the orders sought will grossly prejudice it.
9. I am also inclined to believe the respondent's contention by the respondent that the application offends the principle of Doctrine of Finality of Litigation. The Doctrine of Finality of Litigation is based on public policy and interest. It is intended to uphold and preserve the integrity of the judicial process and efficient administration of justice. The applicant has lost severally to the respondent. His multiple applications on flimsy grounds, to my mind, amount to an abuse of the court process that should not be permitted this Court.
10. The application is accordingly dismissed with costs to the respondent.

DATED AND DELIVERED AT KISUMU THIS 1ST DAY OF DECEMBER, 2025.

ASIKE-MAKHANDIA

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

