

THE REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA

(Coram: Wanjala & Lenaola, SCJJ)

APPLICATION NO. 10 OF 2016

PARLIAMENTARY SERVICE COMMISSION.....APPELLANT

—VERSUS—

- 1. MARTIN NYAGA WAMBORA.....1ST RESPONDENT**
- 2. COUNTY ASSEMBLY OF EMBU.....2ND RESPONDENT**
- 3. SPEAKER OF THE COUNTY ASSEMBLY.....3RD RESPONDENT**
- 4. THE SPEAKER OF THE SENATE.....4TH RESPONDENT**
- 5. THE SENATE.....5TH RESPONDENT**
- 6. ANDREW IRERI NJERU & 31 OTHERS.....6TH RESPONDENT**

(Appeal from the Judgment of the Court of Appeal at Nairobi (Okwengu, Kariuki & Mohammed, JJ.A) in Civil Appeal No. 194 of 2015 delivered on 11th December, 2015 on an Appeal from the Judgment of Mwongo PJ, Korir and Odunga, JJ; delivered in HC Petition No. 7 & 8 of 2014 (Consolidated)).

—BETWEEN—

MARTIN WAMBORA.....APPELLANT

—AND—

- 1. MARTIN NYAGA WAMBORA.....1ST RESPONDENT**
- 2. COUNTY ASSEMBLY OF EMBU.....2ND RESPONDENT**
- 3. SPEAKER OF THE COUNTY ASSEMBLY.....3RD RESPONDENT**
- 4. THE SPEAKER OF THE SENATE.....4TH RESPONDENT**
- 5. THE SENATE.....5TH RESPONDENT**
- 6. ANDREW IRERI NJERU & 31 OTHERS.....6TH RESPONDENT**

NOTICE OF MOTION

(An application for extension of time to file a petition of appeal, under Sections 21(2) and 24 (1) of the Supreme Court Act, 2012 (Cap 9A), and Rules 24 and 53 of the Supreme Court Rules, 2011 and all other applicable provisions of the Law)

RULING

1. **UPON** perusing the application dated, 24th May, 2016, and filed on 25th May, 2016, for extension of time to file a petition of appeal and;
2. **UPON** reading the affidavit of ANTHONY NJOROGI in support thereof, sworn on the 24th of May, 2016;
3. **WE HAVE CONSIDERED** the written submissions on record for the applicant and the respondents. The applicant herein, contends that, the delay in filing the intended appeal, is not attributable to any fault or complacency on his part. The applicant instead submits that, it was the delay in obtaining the typed proceedings from the Court of Appeal, that impeded the timely preparation of the Record of Appeal.

The 1st and 6th respondents, in opposition to the aforesaid application, argue that, firstly, the applicant, not having been party to the proceedings in the High Court, but only having been enjoined as an Interested Party, is not competent to file the intended appeal and secondly, that the delay is inordinate. The respondents contend, that no compelling reasons have been advanced by the applicant to warrant an extension of time; given the fact that the typed proceedings were ready on 5th April, 2016, while the application herein was only filed on 25th May, 2016; one and a half months thereafter.

4. **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 of the Supreme Court Rules (2015).

ORDERS	REASONS
<i>The application dated 24th May, 2016 is hereby dismissed with costs.</i>	<i>No compelling reasons have been presented to the Court as a justification for the inordinate delay.</i>

DATED and **DELIVERED** at **NAIROBI** this 24th Day of March, 2017.

.....
S. C. WANJALA
JUSTICE OF THE SUPREME COURT

.....
I. LENAOLA
JUSTICE OF THE SUPREME COURT

I certify that this is a true copy
of the original

REGISTRAR
SUPREME COURT OF KENYA