



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CIVIL APPEAL NO. 200 OF 2011

BETWEEN

EUNICE AUMA ODERA.....1ST APPELLANT

PETER ODERA WADEYA.....2ND APPELLANT

JAIRUS OGOLA OWITI.....3RD APPELLANT

EVANS OMONDI ODHIAMBO.....4TH APPELLANT

PAUL MISEH.....5TH APPELLANT

AND

MIGORI TEACHERS' SAVINGS & CREDIT

CO-OPERATIVE SOCIETY LIMITED.....RESPONDENT

(Being an Appeal from the Judgment and Decree of the Honourable Chairman

Co-operative Tribunal Mrs. A.N Ongeri sitting at Nairobi on the 13th day of

September 2011 in Nairobi Co-operative Tribunal Appeal No. 7 of 2010)

RULING

The application before me is the Notice of Motion dated 25th September 2017 seeking to set aside the dismissal order made on 25th September 2017.

I have considered the grounds and I am inclined to allow the application as the explanation given by the appellants is plausible. They state that in response to the notice they arrived late and that it is on the same day they filed the record of appeal. The Notice of Motion to set aside was filed on the next day. I do not think that the respondent will suffer prejudice as this will be resolved by an award of costs.

I therefore allow the Notice of Motion dated 25th September 2017 and reinstate the appeal for hearing. The appellants shall pay the respondent costs of Kshs.10,000/= within 14 days.

Mention on 17.07.2018 before Court No.1 for directions.

D.S MAJANJA , J

26/6/2018

Court: Ruling read and delivered in open court.

D.S MAJANJA, J

26/6/2018