

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Misc Civ Appli 144 of 2006

1. **DAWOOD A. OMAR**

2. **AHMED RAMADHAN**

3. **KAME M. KAME.....APPLICANTS**

VERSUS

OMAR M. ALI & 4 OTHERS.....RESPONDENTS

RULING

The Applicants (Tenants) seek leave of this court to appeal out of time against the judgment of the Business Premises Rent Tribunal (the Tribunal) given on the 9th December 2005 in Tribunal cases Nos. 119, 120 and 121 (consolidated). They say that they learnt of that judgment from the Respondent's (Landlord's) Advocate's letters of 15th December 2005 demanding arrears of the increased rent which they received about 10 days later. The Landlord opposes the application on the grounds that the proposed appeal is frivolous and that having learnt of the judgment 10 days after it was delivered the Applicants have not explained why it took them up to the 14th February 2006 to file this application.

I have perused the application together with the supporting affidavit and the annexures thereto. The Applicants have stated that after learning of the judgment they immediately instructed their former advocates to appeal against that judgment. When they realized that those advocates were dragging their feet in the matter they instructed their present Advocates who immediately filed this application.

I am satisfied that the Applicant's application has merit and that they have explained why they did not file this application immediately on learning of the Tribunal judgment. I accordingly allow this application and order that the appeal be filed within 14 days. The costs of this application shall be costs in the appeal.

DATED and delivered this 12th day of May 2006.

D. K. MARAGA

JUDGE