

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA

Civil Appeal 84 of 1999

ANERIKO OMOTO OKONDO & 3
OTHERSAPPELLANT

V E R S U S

SILVESTER MASIKANA
GUMBARESPONDENT

R U L I N G

On 24.7.2002, this court dismissed under Order 41 Rule 31 (2) of the Civil Procedure Rules the appeal No.84 of 1999 between Aneriko Omoto Okondo and three others as appellants and Silvester Masikana Gumba as respondent.

By their application made on 05.12.2005, the four applicants sought to set aside the said dismissal order with a view to revive the appeal. They also sought an order for stay of execution.

In the affidavit sworn by Aneriko Omoto Okondo in support of the application, the deponent did not specify when he or his co-applicants discovered the appeal had been dismissed. The affidavit was devoid of information from which the court could glean whether the applicants had made their application without undue delay and whether there was sufficient cause why they had not attended court on 24.7.2002 when the appeal was dismissed. The application is without any merit and I have no hesitation in dismissing it with costs to the respondent.

Delivered, dated and signed at Kakamega this 29th day of June, 2006

G. B. M. KARIUKI

J U D G E