



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NYERI**

**Misc Appli 76 of 2006**

**JONES MURIITHI MATHENGE.....APPLICANT**

**Versus**

**BENJAMIN KIRIMI INOTI.....RESPONDENT**

**RULING**

This is a Notice of motion dated 24<sup>th</sup> April, 2006 the Applicant, Jones Muriithi Mathenge, seeking leave to appeal out of time. The application is opposed by the Respondent Benjamin Kirimi Inoti on the basis that there has been a delay of up to four months.

After hearing submissions from Mr. Muthoni for the Applicant and m/s Nderitu for the Respondent and reading the relevant affidavits, I am satisfied that the Applicant has sufficiently explained the delay in filing the appeal in a situation herein where the judgment had to be delivered in the absence of the parties because they could not be kept up to-date with the date of that judgment which was changed several times.

Accordingly the application is granted for the appeal to be filed within seven days from to-day.

Costs of this application be in the cause.

Dated this 15<sup>th</sup> day of June, 2006.

**J. M. KHAMONI**

**JUDGE**