



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

**Civil Appeal 123 of 1999**

**PETER MUCHIRI KARIUKI ..... APPELLANT**

**VERSUS**

**GILBERT KARIUKI ..... RESPONDENT**

**R U L I N G**

Gilbert Kariuki the applicant seeks to have the appeal brought against him by Peter Muchiri Kariuki struck out on the grounds that the appellant has failed to serve him or his advocate with the memorandum of appeal 7 months after the appellant was notified of the admission of his appeal.

It is evident from the court record that the appellant's advocate was notified of the admission of the appeal on the 12<sup>th</sup> July 2001. A copy of the letter has been duly stamped received by the advocate. The appellant cannot therefore claim that he had no knowledge of the admission of the appeal. The appellant's lack of interest in the appeal has been demonstrated by the manner in which they have handled this application. I concur with the applicant's advocate that the applicant lacks interest in this appeal. I find that the applicant is abusing the process of the court by delaying the appeal and it is only fair and just that this court exercises its inherent jurisdiction under Section 3A of the civil Procedure Act to prevent such an abuse. Accordingly I grant the application and I strike out the appeal. Costs to the applicant.

**Dated signed and delivered this 18<sup>th</sup> October 2006**

H. M. OKWENGU

**JUDGE**