

REPUBLIC OF KENYA

THE HIGH COURT IN NAIROBI(MILIMANI LAW COURTS)

MISC APPLI 550 OF 2006

SAMUEL NJUGUNA KAMAU PLAINTIFF

VERSUS

REBECCA MUMBI KIGURUDEFENDANT

RULING

The Applicant by way of this Notice of Motion seeks leave to Appeal out of time. The application is premised on the ground that the delay to file the Appeal in time was caused by the Court. The application is also supported by an affidavit sworn by the Applicant Samuel Njuguna Kamau in which he avers that immediately judgment was delivered he instructed his Counsel on record to apply for copies of proceedings and Judgment which he did on 2.6.06 and the same were not received until 12/6/06 which was outside the statutory period allowed within which to prefer appeal.

The application is not opposed. Mr. Mbilyu Counsel for the Respondent in reply to the application did not oppose the application. The Applicant has established that failure to file Appeal within the statutory period was beyond his control and the Appeal being not opposed, the same is allowed. The Applicant to file the Appeal within 14 days from the date of this ruling.

Costs of this application be costs in the Appeal.

DATED at Nairobi this 19th day of December, 2006.

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J.L.A. OSIEMO

JUDGE