

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

Misc Civil Appli 264 of 2005

AGNES WAITHERA NGUGI APPLICANT
VERSUS
CHARLES NJIHIA NGUGI RESPONDENT

RULING

This is an application to extend the time for filing appeal. It does not indicate the provisions of the law under which it is brought before this Court, but I would not wish to punish the litigant for the carelessness of his Counsel. I assume the Applicant is invoking Section 79 G of the Civil Procedure Act.

The reason given for the delay in filing the Memorandum of Appeal is that the Applicant has applied for, but not received, the certified copy of the Judgment and decree, and the proceedings of the lower court. Ordinarily this would not be a good excuse for not filing the memorandum of appeal in time. Copies of proceedings are not required to do so, although I agree that a copy of the Judgment is needed to help Counsel draft the Memorandum. I assume that a copy of the Judgment was not available within time – there is no evidence to the contrary because the Respondent has chosen not to file any replying affidavit.

Accordingly, I will allow this application dated 18th February, 2005, and direct that the Memorandum of Appeal be filed and served within the next seven days. Costs of this application to the Respondent.

Dated and delivered at Nairobi this 22nd day of June, 2005.

ALNASHIR VISRAM

JUDGE