

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
Civil Appeal 1081 of 2004

KENYA POLICE STAFF SAVINGS AND
CREDIT CO-OPERATIVE SOCIETY LTD APPELLANT
VERSUS
PETERO MUGO KIMEREH RESPONDENT

(An Appeal from the Judgment/Award of S. N. Mbugi, Deputy Chairman
in Nairobi Co-operative Tribunal Suit No 243 of 2004
delivered on 29th September, 2004).

JUDGMENT

Section 81 (1) of the Co-operative Societies Act, No 12 of 1997, (hereinafter “the Act”) states as follows:

“81 (1) Any party to the proceedings before the Tribunal who is aggrieved by any order of the Tribunal may, within thirty days of such order, appeal against such order to the High Court:

Provided that the High Court may, where it is satisfied that there is sufficient reason for so doing, extend the said period of thirty days upon such conditions, if any, as it may think fit”.

This appeal is against the Order of the Co-operative Tribunal made the 29th September, 2004. The time limit for filing this appeal expired on 28th October, 2004. It is not in dispute that it was filed late, without leave of this Court, as required by the proviso to Section 81 (1) of the Act. On that ground alone, this appeal must fail. Mr Tongoi, Counsel for the Appellant submitted before this Court that by an Order dated 8th December, 2004 the Co-operative Tribunal had granted the Appellant leave to appeal out of time. This followed an ex parte application made to it by the Appellant.

However, in view of the clear and unambiguous provisions of the law, it is only the High Court, and not the Co-operative Tribunal, that can extend the time for filing appeal “**where it is satisfied that there is sufficient reason for so doing**”. The Order of the Tribunal dated 8th December, 2004 extending the time for filing appeal is of no consequence, and was made without jurisdiction.

Accordingly, this appeal is incompetently before this Court, and is hereby struck out with costs to the Respondent.

Dated and delivered at Nairobi this 13th day of June, 2005.

ALNASHIR VISRAM
JUDGE