

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Misc Civil Appli. 72 of 2005

WAWERU MUNYI.....APPLICANT

VERSUS

ELIUD KARIUKI WAWERU.....1ST RESPONDENT

JOSPAT MURIUKI KIAMA.....2ND RESPONDENT

EMMANUEL MAINA NJIRANI.....3RD RESPONDENT

RULING

1. The Applicant herein seeks leave to Appeal out of time from the decision of J.N. Onyiego, Esq, SRM made on 6.4.2005 in *SRMCC No. 443/2004 (Kerugoya)*.
2. I note that the Applicant applied for proceedings on 11.4.2005, five (5) days after the Ruling and the said proceedings were supplied on 10.5.2005 and the instant Application was filed on 18.5.2005. The delay in filing the Appeal on time cannot in those circumstances be said to be inordinate.
3. There being no serious opposition to the Application as all the grounds of opposition do not address the expectation of Section G of the Civil Procedure Act, I am satisfied that the Applicant has given a sufficient explanation for the short delay.
4. As an Appeal is a right which should be denied in the clearest circumstances to warrant such denial, I should exercise discretion in favour of the Applicant.
5. Accordingly, the Application dated 18.5.2005 be and is hereby allowed save that the Appeal shall be filed within 14 days hereof.
6. Costs shall abide the Appeal.

Orders accordingly.

Dated and delivered in open court on this 18thday of

...Oct....2005.

I.LENAOLA

JUDGE