

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

Civil Appeal 96 A of 1999

**MICHAEL GACOKI GICHERU RESPONDENT/APPLICANT
VERSUS**

JOSEPH KARORIA GICHERU APPELLANT/RESPONDENT

R U L I N G

Michael Gacoki Gicheru the Respondent/Applicant seeks to have the appeal filed herein dismissed for want of prosecution. It is the applicant's contention that although the appeal was filed on 24th September 1999 to date, the appellant/Respondent has not taken any action to have a date for directions nor has he filed the record of appeal. As a result the appellant continues to enjoy the benefit of the land to the detriment of the applicant.

It is evident from the court file that this appeal was certified to be raising issues of law in accordance with section 8 of the Land Disputes Tribunal Act on 31st May 2005. A letter was immediately sent to the appellants advocate requesting him to comply with Order 41 Rule 8B. To date the advocate has not done so.

It is evident that the application before the court is misconceived as no directions have been given by the court and therefore the court can only dismiss the appeal on its own motion.

I am now giving the appellant 21 days within which to comply with order XLI rule 8B of the Civil Procedure Code i.e. file the record of appeal and list the matter for directions failing which the Registrar of this court will be at liberty to list the appeal before a judge for dismissal under Order XLI rule 31 (2) of the Civil Procedure Rules.

Dated signed and delivered this 24th day of November 2005

H. M. OKWENGU

JUDGE