



**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**

**CIVIL APPEAL NO. 53 OF 2002**

**PETER KAMAU KAIGOYA ..... APPELLANT**  
**VERSUS**  
**AZIZ ABBA ABDALLA ..... RESPONDENT**

**R U L I N G**

The Applicant has sought an order for the Dismissal of the appeal for want of Prosecution. The Appellant filed a memorandum of appeal on 22.5.02 and applied for a Temporary stay order. The same was granted pending the inter-party hearing on 23.4.02. On 23.4.02, there was no appearance for either party and the court discharged the said orders. Since then, the appellant has taken no action. The applicant now says he is suffering injustice as a result of the said appeal and prays for Dismissal of the same.

I have considered all the facts and having read the entire file I agree the Appellant after obtaining the order for stay went to sleep and even after it was discharged no further action has been taken. In the circumstances, I allow the application the appeal is hereby Dismissed with costs to the applicant.

**Dated and Delivered at Mombasa this 5th day of May, 2003.**

**P.M. TUTUI**  
**COMMISSIONER OF ASSIZE**