

REPUBLIC OF KENYA

HIGH COURT AT NYERI

Misc 2 of 02[1]

MT. KENYA PETROLEUM DISTRIBUTORS.....APPLICANT

VERSUS

KRISHON BEHAL & SONS.....RESPONDENTS

R U L I N G

By his amended notice of motion filed on 27th May 2003, the Applicant seeks to have time enlarged to enable him appeal against the ruling of the Senior Resident Magistrate Nanyuki in SRMCC No. 33 of 2001 delivered on 21st September 2001. The applicant has explained in the supporting affidavit that the delay was due to efforts which were being made to comply with the Magistrate's order. Although grounds of opposition and replying affidavit was filed objecting to the application there was no attendance by the Advocates for the Respondent at the hearing of the application.

It is evident that there has been delay on the part of the applicant which delay was due to the actions of the Applicant's advocate. Given the ruling of the Magistrate, and the law applicable. I am satisfied that the applicant has an arguable appeal and that I should exercise my discretion in its favour. I do therefore allow the application and do enlarge time for the applicant to file his appeal within 21 days from the date hereof. I give no orders as to costs.

Dated, Signed and Delivered this 23 rd day of December 2003.

H. M. OKWENGU

JUDGE