

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HC. MISC. APP. NO.209 OF 2000

GATHONI GITHOGORI (Personal Representative of Gacheke

Macharia).....APPELLANT

VERSUS

**BENJAMIN NGATIA MACHARIA (Personal and Legal Representative
of Ngatia Macharia – deceased).....RESPONDENT**

RULING

The Respondent herein has raised a preliminary objection to this appeal on the grounds that the same is incompetent, misconceived and unmaintainable in law as it contravenes the Mandatory Provisions of Section 8 of the Land Disputes Tribunal Act Number 18 of 1990.

Counsel for the Respondent has submitted that the appeal is incompetent having been brought more than the sixty days provided under Section 8 of the Land Disputes Tribunal Act (No.18/1990).

It is evident from the proceedings which were attached to the memo of appeal that the ruling sought to be appealed against was delivered on 26th April, 2000 while this appeal was filed about six months later on 24/11/2000. No leave of this court was obtained to have the appeal filed out of time. The appeal is therefore clearly incompetent.

The preliminary objection is therefore sustained and the appeal is struck out with costs.
Orders accordingly.

Dated, Signed and Delivered this 22nd day of December 2003.

H. M. OKWENGU

JUDGE