



**REPUBLIC OF KENYA**

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

**MISC APPLICATION NO. 1420 OF 2001**

**IN THE MATTER OF THE ESTATE OF DANIEL MUNGAI NGURE**

**ALIAS MUNGAI NGURE – DECEASED**

**TABITHA WANBUI MUNGAI.....APPELLANT**

**VERSUS**

**JOYCE WANJIKU MUNGAI.....RESPONDENT**

**RULING**

I have perused the grounds on which applicant relies to show that she was prevented by sufficient cause to file the appeal in time. She blames the court, for failing to provide certified copies of proceedings in time. Applicant was represented by counsel who is deemed to be aware of the law.

By Order XLI Rule 1 and Rule 1A, a certified copy of the Ruling/Judgment and a certified copy of proceedings are not necessary in filing a competent Appeal. All is required is a memo of Appeal and a certified copy of the decree or order appealed from.

I am therefore satisfied that applicant has not satisfied the court that she was prevented by sufficient reasons from filing the Appeal in time. In any case I have perused the copy of the Ruling delivered by the lower court on 20.6.2001. The learned Magistrate distributed the estate in accordance with s. 40 of the Law of Succession Act.

The intended appeal is therefore prima facie frivolous and intended to delay the distribution of the estate.

I dismiss the application with costs.

**E. M. Githinji**

**Judge**

**18.2.2002**

**Mr. Kioko holding brief for Ndicho for respondent present**

**Miss Mwangi absent**