



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL APPEAL NO. 80 OF 1997**

**ORIENTAL PRINTERS & STATIONERS.....PLAINTIFF**  
**VERSUS**  
**RIVROM PROPERTIES LTD.....DEFENDANT**

**R U L I N G**

The appellant's appeal was struck out as being incompetent on the grounds that the advocate for the appellant failed to comply with order \*(b) (2) & (4) of the Civil Procedure Rules.

There is now before me an application for leave to file a fresh appeal and record of appeal against the judgment of the Business Premises Rent Tribunal dated 17th February, 1997.

I cannot and should not appear to be sitting on appeal from a decision of another court of concurrent jurisdiction. I note however the following. The appellant's appeal was not dismissed but struck out. Therefore there was no hearing on merit. Further, this appeal was from a decision of the B.P. R. T. exercising its powers under the Landlord and Tenant Act Cap 301 Laws of Kenya. Under that Act, section 15(4), the decision of the High Court on any appeal shall be final and shall not be subject to further appeal.

That is to say, if the appellant is not granted leave to file a fresh appeal, there is no other redress. Yet the appeal was not heard on merit. Above all all, this court has inherent powers to make such orders as may be necessary for the ends of justice.

For those reasons, I grant leave for the appellant to file a fresh appeal. This should be an interim stay of execution of the judgment of the B.P.R.T. for 14 days after which counsel should argue the application inter partes. The appellant shall however pay the costs occasioned by this application.

Order accordingly.

**Dated and delivered at Nairobi this 31st day of July, 1998**

**A. MBOGHOLI MSAGHA**

**JUDGE**