



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NAIROBI**  
**(CORAM: OMOLO J.A (IN CHAMBERS)**  
**CIVIL APPLICATION NO.NAI. 214 OF 1998**  
**BETWEEN**

**JUSTUS KABAYA .....APPLICANT**  
**AND**  
**JOSES M'THIKANYI M'ERINGO .....RESPONDENT**

**(Application for extension of time to file an appeal from  
the judgment of the High Court of Kenya at Meru  
(Etyang J) dated 7th April, 1998**

**in  
H.C.C.C. NO. 56 OF 1993)**

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**RULING ON REFERENCE TO FULL COURT**

This is a reference under rule 54 of the Court of Appeal Rules from a decision of Tunoi, JA. sitting as a single Judge of this Court given on 11th May, 1999.

As the learned Judge correctly found the application did not lie at the time it was filed as the period prescribed under the Rules had not elapsed. That aside, the applicant did not place before the learned single Judge all the material necessary for his exercise of the discretionary power. In the result the reference fails and is dismissed with costs to the respondents.

**Dated and delivered at Nyeri this 26th day of October, 1999.**

**R. O. KWACH**

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**JUDGE OF APPEAL**

**A. M. AKIWUMI**

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**JUDGE OF APPEAL**

**A. B. SHAH**

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**JUDGE OF APPEAL**

**I certify that this is a true copy of the original.**

**DEPUTY REGISTRAR**