

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(Coram: Gicheru, J.A. (IN CHAMBERS))
CIVIL APPLICATION NO. NAI. 18 OF 1999
BETWEEN

REUBEN NJUGUNA NYUMU.....APPLICANT
AND
NELLY WAGIO NJUGUNA.....RESPONDENT

**(Appeal from a Ruling of the High Court of Kenya at
Nairobi
(Githinji, J.) dated 17/3/97
in
H.C.C.C. NO. 513 OF 1992**

RULING:

In this Notice of Motion the applicant has sought extension of time within which to lodge and serve the record of appeal.

From the submission of counsel for the applicant, the cause of delay in lodging the record of appeal was the nonreceipt of the proceedings from the superior court until 3rd April, 1998 besides the applicant's delay in giving appropriate instructions to counsel.

It would appear from the record of this application that the ruling intended to be appealed from was given on 17th March, 1997. A copy of the said ruling was checked and certified as true of the original ruling on 20th November, 1997. Although it would appear from the supporting affidavit to the applicant's application that an earlier application for extension of time was made on 7th July, 1998 and subsequently withdrawn, the present application was not made until 25th January, 1999 - a period of 22 months from the date of the ruling intended to be appealed from. Notwithstanding counsel's contention that the applicant's intended appeal is meritorious, the delay of 22 months in making this application is certainly inordinate. In the absence of plausible explanation for this delay, I agree with counsel for the respondent that the applicant was clearly indolent in making this application to this Court and on account of this he is not entitled to the exercise of discretion in his favour under **rule 4** of the Court of Appeal Rules. In the result, this application is dismissed with costs to the respondent. **Dated and delivered at Nairobi this 19th day of November, 1999.**

J.E. GICHERU

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JUDGE OF APPEAL

Order:

Applicant to apply for reference to the full court if he so desires.

J.E. GICHERU

JUDGE OF APPEAL

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

DEPUTY REGISTRAR