



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT KSIUMU**  
**(CORAM: CHESONI, C.J. GICHERU & OMOLO J.J.A.)**  
**CIVIL APPEAL NO. 26 OF 1997**  
**BETWEEN**

**1. I.W. WAWERU T/A WATHIOMO SAFARIS**  
**2. JULIUS MUZEE KORIR.....APPELLANTS**  
**AND**  
**1. FREDRICK J.P. ARODI**  
**2. DORCAS JANE ONDITI.....RESPONDENTS**

**(Appeal from the Judgment of the High Court of Kenya at  
Kisumu (Justice Wambilyangah) dated 3rd July, 1996  
in  
H.C.C.C. NO. 242 OF 1990)**  
**\*\*\*\*\***  
**RULING OF THE COURT**

The judgment sought to be appealed from was delivered on 3rd July, 1996. The Notice of Appeal was filed on 8th July, 1996. Although Mr Miruka Owuor has ably supported his submission with documentary evidence which shows that the proceedings and judgment were ready by 22nd July, 1996 when he obtained his certified copies, the Certificate of Delay speaks of proceedings being ready by 25th September, 1996. The appeal was due for filing 60 days from the date the proceedings were ready. Whichever date is taken this appeal was filed way out of time and is therefore incompetent. No leave to extend time for filing it has been applied for. We order the said appeal to be struck out in terms of Rule 80 of the

Court of Appeal Rules with costs of the application to the applicant.

**Dated and delivered at Kisumu this 25th day of March, 1998.**

**Z.R. CHESONI**

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**JUDGE OF APPEAL**

**J.E. GICHERU**

.....

**JUDGE OF APPEAL**

**R.S.C. OMOLO**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**