

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT KISUMU

CIVIL APPL NO.NAI.333 OF 95

PATRICK MAKOKHA.....APPLICANT

AND

LEONARD NASIRUMBI.....APPLICANT

RULING

In this application, the applicant Patrick Makokha, seeks extension of time to lodge and serve the notice and record of appeal. The applicant's original Civil Appeal No.39 of 1994 was on 21st March, 1995 struck-out by this court for the reason that the record of appeal did not contain a certified copy of the decree or order appealed from.

The applicant filed this application on 6th November, 1995. He has not given me a sufficient explanation for the inordinate lapse of time of well nigh eight months.

Moreover, what the applicant is seeking to achieve in the intended appeal may be elusive. The elder's award was read to the parties on 18th December, 1992. No objection to it was filed and the same was confirmed and made judgment of the court on 17th February, 1993. The resultant appeal to this court is in the circumstances a non starter.

In the circumstances I am disinclined to exercise my discretion under rule 4 of the Rules of this court in favour of the applicant. I must therefore dismiss the application. I do so. I make no order as to costs.

Delivered at Kisumu this 23rd day of March, 1998.

P.K. TUNOI

JUDGE OF APPEAL