



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

IN NAIROBI

(CORAM: KWACH, SHAH & OWUOR J.J.A)

CIVIL APPEAL (APPLICATION) NO. 60 OF 1995

BETWEEN

PAUL NJOROGE NDUATI APPELLANT

AND

STEPHEN NDUATI NJOROGERESPONDENT

(An Appeal from the judgment and order of the High Court of Kenya at Nairobi (Mr. Justice Butler Sloss) dated 27th April, 1988

in

H.C.C.A. NO. 75 OF 1987)

RULING OF THE COURT

The respondent is not here, though served, to oppose the application. Ms. Sollei appeared for the applicant on 18.12.96 to seek an adjournment on the ground that the advocate in her chambers who was dealing with the appeal was ill. The adjournment was refused by this court and Ms. Sollei was asked to come back after half an hour to argue the appeal.

She did not come back. Technically the appeal was therefore dismissed for want of appearance. The applicant seeks orders under rule 90 of the Rules of this court for reinstatement of the appeal. There is acceptable evidence before us that the applicant was indisposed and so was his counsel briefed to appear in fort heh im.c ircumstances we order that this appeal be reinstated for hearing. There will be no order as to costs.

Dated and delivered at Nairobi this 16th day of September, 1998.

R.O KWACH

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JUDGE OF APPEAL

A.B. SHAH

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR.