

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: LAKHA, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. NAI. 247 OF 1998 (98/98UR)

BETWEEN

GEORGE CHEYNE & 20 OTHERSAPPLICANT

AND

ROBIN MUNYUA KIMOTHORESPONDENT

IN THE COURT OF APPEAL

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BETWEEN

R U L I N G

This is yet another application where the question arises as to the principle underlying the grant by the Court of an extension of time in its discretion. The starting point is as it must be rule 4 itself which confers the widest measure of discretion and makes no distinction between the various classes of cases. The rule requires justice to be done as the paramount consideration. Here, I am satisfied that the appeal was not filed in time through no fault on the part of the applicant. Assuming, without deciding, that the applicant learnt of the Ruling in August, 1998 I am satisfied that there has been no inordinate delay. In all the circumstances, I am satisfied that this is a fit and proper case for the exercise of my discretion.

Accordingly, I order that the Notice of Appeal be filed within 7 days from today and the record of appeal within 45 days thereafter. Costs shall abide the appeal. Made and delivered at Nairobi this 28th day of October, 1998.

A.A. LAKHA

JUDGE OF APPEAL

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

DEPUTY REGISTRAR