

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT NAIROBI
(Coram: Kwach, Tunoi & Shah, J.J.A.)
CIVIL APPLICATION NO. NAI. 378 OF 1996

BETWEEN

**BANK OF CREDIT & COMMERCE INTERNATIONAL
(OVERSEAS) LTD.....APPLICANT**

AND

**1. UNITED COREBOARD PRODUCTS LTD
2. KUNVARJI SHIVJI VARSHANI
3. SHAMJI SHIVJI VARSHANI
4. NARAN SHIVJI
VASHANI.....RESPONDENTS**

**(Appeal from the ruling of the High Court of Kenya at
Nairobi
(Mwera, J.) dated 19th May, 1995**

in

H.C.C.C. NO. 4875 OF 1987)

RULING OF THE COURT:

In this Notice of Motion the applicant seeks an order striking out the notice of appeal dated 31st May, 1996, on the ground that no fresh appeal has been filed within the time prescribed by the Rules of this court. Original Civil Appeal No. 192/95 was struck out on 10th November, 1995, and was therefore incapable of resuscitation. Mr. Okach, for the respondents, has no answer to the point taken by Mr. Oyatsi which, in our view, is a valid point.

In the circumstances the application succeeds and is granted. The notice of appeal filed on 31st May, 1996 is hereby struck out with costs to the applicant.

Dated and delivered at Nairobi this 27th day of February, 1997.

R.O. KWACH

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JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

A.B. SHAH

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR