

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

CORAM: KWACH, TUNOI & SHAH, J.J.A.

CIVIL APPEAL NO. 223 OF 1995

BETWEEN

CORPORATE INSURANCE CO. LTD APPELLANT

AND

HAMID CHEMICALS LIMITED RESPONDENT

(Appeal from the Judgment and decree of the High Court of
Kenya at Nairobi (Justice G.S. Pall) dated 16th
February, 1993
in
H.C.C.C. NO. 1824 OF 1987)

RULING OF THE COURT

The respondent has taken out a Notice of Motion under rule 80 of the Court of Appeal Rules seeking an order striking out the appeal filed by the appellant on 7th December, 1995, on the ground that it was filed out of time without the leave of the Court being sought. Mrs Maira, for the appellant, does not dispute this except to say that costs should not be granted to the respondent since she was served only last Friday. The motion was filed on 14th February, 1997 and that gives the appellant sufficient time under rule 49 of the Rules of this Court. The application is granted and the appeal is struck out as incompetent with costs to the respondent. The respondent will also have the costs of the motion.

Dated and delivered at Nairobi this 17th day of February, 1997.

R.O. KWACH

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JUDGE OF APPEAL

A.M. AKIWUMI

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JUDGE OF APPEAL

A.B. SHAH

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR