

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAKURU

(CORAM: BOSIRE AG. J.A (IN CHAMBERS))

CIVIL APPLICATION NO. NAI.411 OF 1996

BETWEEN

LOINTEBES GROUP RANCH.....APPLICANT

A N D

KIPKEMOI ARAP MENDERA.....RESPONDENT

**(Appeal from a judgment of the High Court of Kenya at Kericho
(Justice Nambuye) dated 25th July, 1994**

in

H.C.C.C. NO. 17 OF 1992)

RULING OF THE COURT

There is an application under rule 4 of the Rules of this Court for an order extending time within which to file and serve a record of appeal out of time. The appellant's previous appeal against the decision of the superior court's judgment delivered on 25th July, 1994 was struck out on 27th September, 1996 because the record of appeal did not include a certified copy of decree. The applicant was therefore required to start the appellate process denovo. The applicant having not applied for extension of time within which to file a notice of appeal out of time, even if I were minded to grant the present application it will not serve any purpose. The process of appeal is started by the lodging of a notice of appeal and thereafter a record of appeal. The applicant having not realized that part, I am constrained not to exercise my discretion in favour of setting aside and will dismiss the appeal but with no order as to costs.

Dated at Nakuru this 20th day of February, 1997.

S.E.O. BOSIRE

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AG. JUDGE OF APPEAL

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

DEPUTY REGISTRAR