

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT KISUMU
CORAM: BOSIRE, AG. J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI. 24 OF 1997

BETWEEN

ARCHDIOCESE OF KISUMUAPPLICANT
AND
PHOEBE ATIENO NYAGUDIRESPONDENT

(An application for extension of time to lodge and serve
notice of appeal and memorandum and record of appeal
from the decision and orders of the High Court of
Kenya at Kisumu (Justice Wambilyangah) dated 9th
April, 1996
in
H.C.C.C. NO. 287 OF 1991)

R U L I N G

This is an application under rule 4 of the Rules of this Court for an order extending time within which to file and serve a notice of appeal out of time and thereafter a record of appeal of an intended appeal against the decision of the Superior Court in its Civil Case No. 289 of 1991.

Mr. Menezes has sworn the affidavit in support of the application and has fully set out the reasons for the delay in filing the notice of appeal timeously. Although there is no explanation given regarding the delay prior to instructions being given to Mr. Menezes, this Court has unfettered discretion to extend the time provided that the delay is not inordinate. Moreover, Mr. Aluoch for the respondent does not oppose the application, properly so in my view considering that no injustice is likely to result to his client. I grant the orders sought and extend the time within which to file a notice of appeal by 10 days and a record of appeal within 30 days thereafter. The costs of this application to the respondent assessed at KShs.2,000/=.

Dated and delivered at Kisumu this 11th day of March, 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