



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

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

CIVIL APPLICATION NO. NAI. 198 OF 1996

KAIRU ENTERPRISES LIMITED .....

APPLICANT

AND

GITUNDU DEVELOPERS LIMITED .....

RESPONDENT

(Application for extension of time to file a Notice of Appeal out of time in an intended appeal from a ruling/judgment of the High Court of Kenya at Nairobi (Mr. Justice Shields) dated 2nd May, 1991 in H.C.C.S. NO. 3699 OF 1990)

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**RULING OF THE COURT**

I do not think the applicant is serious in the matter. Its previous appeal was struck out on the 14th February, 1996; this application was not brought until the 19th June, 1996. That, as Miss. Kamau correctly points out, is a delay of over four months. There is not a single word in the affidavit as in the submissions of Mr. Muttu in explanation of that delay.

In those circumstances, I hold that the applicant has wholly failed to place before me any material upon which if I can exercise my discretion in its favour. I refuse to do so and the consequence of that is that this application fails and it is hereby dismissed with costs to the respondent.

Dated and delivered at Nairobi this 24th day of April, 1997.

**R. S. C. OMOLO**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**

