



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

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

CIVIL APPLICATION NO. NAI 208 OF 1996

BETWEEN

THE ESTATE OF JOSEPH MUNYINYI

THE ESTATE OF WACHIRA KAHORO

HANNAH MUGURE ..... APPLICANTS

AND

JOHN NDUNGU THAIRU ..... RESPONDENT

**(Application for extension of time to file notice and record  
of appeal out of time in an intended appeal from a ruling  
and order of the High Court of Kenya (Githinji J) dated  
8th July, 1991**

**in**

**H.C.C.C. NO. 373 OF 1983 (O.S.))**

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**R U L I N G**

The applicant's previous appeal was struck out on the 14th June, 1996. I am told by both counsel that it was struck out as being incompetent because the ruling of the superior court against which the appeal was brought was not dated. The applicant does not seem to have overcome that problem because even a copy of that ruling attached to this application is still undated. Mr. Njau, however, says they will be able to get a dated ruling before the intended appeal is filed. They filed the present application within two weeks after their previous appeal was struck out. There was no delay there and whether or not they will be able to mount a competent appeal if leave is granted, cannot prevent one for exercising my discretion in their favour.

Accordingly, I allow this application as prayed in paragraph one of the notice of motion and order that the notice of appeal be filed within seven days of the date hereof and the record of appeal be filed within twenty-one days from the date of filing of the notice of appeal. The costs of the application shall be costs in the appeal. Those are my orders.

**Dated and delivered at Nairobi this 6th day of June, 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**