



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

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

CIVIL APPLICATION NO. NAI. 341 OF 1996

BETWEEN

COAST BUS COMPANY.....APPLICANT

AND

GIDEON NDEKE MUNYAO (Suing as next of kin to

JONAH NDEKE MUNYAO & NZEBI MUNYAO).....RESPONDENT

(An Application for Extension of Time to file Notice of  
Appeal and Record of Appeal out of time from the  
Judgment of the High Court of Kenya at Machakos  
(Justice Osiemo) dated 17th March, 1993

in

H.C.C.C. NO. 96 OF 1996 CONSOLIDATED WITH NO. 97 OF 1993

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R U L I N G

This is an application under rule 4 of the Court of Appeal Rules for extension of time to file and serve a Notice of Appeal and to file an appeal. The decision against which the applicant wishes to appeal was given by Osiemo, J. on 17th March, 1993. An earlier appeal filed by the applicant was struck out by this Court on 5th November, 1996 on the ground that the record of appeal contained a defective copy of the decree appealed against. The date on the decree was at variance with the date of the judgment.

The applicant has now brought this application although its Advocates on record have taken no steps yet to rectify the error which rendered the earlier appeal incompetent. The application is still based on the defective decree. I cannot see on what basis I can exercise my discretion in favour of the applicant. The application is dismissed with costs.

Dated and delivered at Nairobi this 22nd day of September, 1997.

R. O. KWACH

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JUDGE OF APPEAL

