



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(Coram: Gicheru, Kwach JJ.A. & Bosire, Ag. J.A.)

CIVIL APPLICATION NO. NAI. 288 OF 1996

BETWEEN

ISHMAEL MUNGAI.....APPLICANT

AND

MUNGAI MUNA.....RESPONDENT

(Application to strike out Notice of Appeal out of time in an intended appeal
from a judgment of the High Court of Kenya at Nairobi (Akiwumi, J.)

dated 5/6/1991

in

H.C.C.C. NO. 2270 OF 1981)

RULING

On 18th October, 1993 a single judge of this Court granted the respondent extension of time to lodge the record of appeal within 30 days of that date. To this day no record of appeal has been lodged and the respondent admits this fact. On account of this lapse the applicant has sought to have the respondent's Notice of Appeal struck out. In view of the noncompliance with the order of the single judge of this Court as is referred to above the applicant's application is irresistible. In the result, the same is granted so that the respondent's Notice of Appeal dated 9th June, 1989 is struck out but we will make no order as to the costs occasioned by this application.

Dated and delivered at Nairobi this 19th day of September, 1997.

J.E. GICHERU

.....

JUDGE OF APPEAL

R.O. KWACH

.....

JUDGE OF APPEAL

S.E.O. BOSIRE

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR