



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NAIROBI**

**(CORAM: BOSIRE AG. JA (IN CHAMBERS))**

**CIVIL APPLICATION NO. NAI. 170 OF 1997**

**BETWEEN**

**DAVID WAIGANJO WAMANDA.....APPLICANT**

**AND**

**SAFARI CAMP SERVICES LTD.....RESPONDENT**

**(Application for extension of time to file notice of appeal and record of appeal  
out of time in an intended appeal from a judgement, decree,) of the High Court  
of Kenya at Nairobi (Mr Justice Shah) dated 20th December 1994**

**in**

**H.C.C.C. No.775 of 1984)**

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**RULING**

The applicant's earlier appeal was struck out on 26th June 1997 because, firstly there was variance between the date of the judgment and of the decree appealed against and, secondly, because his record of appeal did not include the exhibits which had been produced before the trial court. In this application he seeks extension of time under rule 4 of the Rules of this court to file a competent appeal. After his appeal was struck out the applicant says he has taken the necessary steps to have the date of the superior court judgment, against which his intended appeal relates, amended. He filed this application within a month. The delay in doing so is not inordinate.

The respondent opposes the application but in my view the ground which it relies upon is tenuous because there is no legal impediment to an applicant whose appeal has been struck out for being incompetent seeking extension of time within which to file a competent appeal.

In the above circumstances I consider this to be a fit case for exercising my discretion in favour of extending time.

Accordingly I extend the time within which to file a fresh notice of appeal, by 7 days from the date hereof and for lodging a record of appeal by a further 30 days.

Dated at Nairobi this 29th day of October 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**