

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(Coram: Gicheru, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. NAI. 107 OF 1997

BETWEEN

JOHN GITHINJI WANGONDU.....APPLICANT

AND

RAPHAEL GITAU NJAU AND 5 OTHERS.....RESPONDENTS

(Application for extension of time to file appeal from the ruling and order of the

High Court of Kenya at Nairobi (Kuloba, J.)

in

H.C.C.C. 3065 OF 1996)

RULING

The ruling in respect of which the applicant intends to appeal was given on 6th February, 1997 and on the following day - 7th February, 1997 - he applied for certified copies of the proceedings and ruling in the superior court but did not send a copy of that application to the respondents. On 11th February, 1997 the applicant lodged his Notice of Appeal in the superior court. He received certified copies of the proceedings and ruling on 9th April, 1997 but having not sent a copy of his application for the said proceedings and ruling to the respondents he could not avail himself the benefits of the proviso to rule 81(1) of the Rules of this Court. Hence the present application which was made on 15th May, 1997.

As of 15th May, 1997 the applicant was late in lodging his intended appeal to this Court by about 33 days and according to his counsel such delay was not inordinate. I am not so sure about that but had the applicant sent a copy of his application for the proceedings and ruling as is mentioned above to the respondents, he could have availed himself of the benefits of the proviso to rule 81(1) of the Rules of this Court and by the date of the present application - 15th May, 1997 - the time for lodging his intended appeal to this Court would not have run out. Counsel for the respondents does not, however, appear to be seriously opposed to the applicant's application and leaves the matter to the Court. In the result I, in the exercise of my discretion under rule 4 of the Rules of this Court, grant the applicant's application so that the time for lodging his intended appeal to this Court is extended by 15 days from today's date. The costs occasioned by this application are awarded to the respondents in any event.

Dated and delivered at Nairobi this 2nd day of October, 1997.

J.E. GICHERU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR