

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

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

CIVIL APPLICATION NO. NAI. 167 OF 1997

BETWEEN

NDIMO FARMERS CO-OP. SOCIETY LTD APPLICANT

AND

SAMUEL WACHIRA & OTHERS RESPONDENTS

**(Application for leave to file a Record of Appeal out of
time in an intended Appeal from a Ruling and Order
of the High Court of Kenya at Nairobi (Justice
Dugdale) dated 4th October, 1994**

in

H.C. MISC. APPLI. NO. 192 OF 1984)

R U L I N G

In exercise of my unfettered powers under Rule 4 I grant the application for extension of time to file the record of appeal for another 30 days from now. It is true that the applicant had not filed the record of appeal within 60 days after receiving them but if it has taken 981 days to obtain the certified copies of the proceedings and the ruling in the superior court which incidentally does not include exhibits, I do not think that the delay of some few days that is from 10th June, 1997 to 3rd July, 1997 when the application was filed, should constitute sufficient reason why I should not exercise my unfettered powers in this application, which unlike other applications, does not require to have been first considered by the superior court. The applicant will pay the respondents costs for today assessed at 2,500/- within 14 days otherwise execution to issue.

Dated and delivered at Nairobi this 18th day of November, 1997.

A. M. AKIWUMI

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR.