



IN THE COURT OF APPEAL

AT NAIROBI

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

CIVIL APPEAL APPLICATION NO. 143 OF 1996

BETWEEN

MAGANA HOLDINGS LIMITED.....APPELLANT

AND

LILIAN NJERI MUNGAI)

NJOROGE MUNGAI.....RESPONDENTS

(Appeal from the Ruling of the High Court of Kenya at Nairobi (Justice Hayanga) dated 13th February, 1996

in

CIVIL CASE NO. 973 OF 1995 (O.S)

RULING

There is really no valid reason upon which I can refuse to exercise my discretion in favour of the applicant. The ruling the applicant intends to challenge in this court was delivered on the 13th February, 1996. The applicant filed its notice of appeal on the 20th February, 1996. On the 14th February, 1996 the applicant applied for the proceedings and ruling and that letter was duly

copied to counsel for both respondents. The proceedings were apparently supplied to the applicant within time. But to mount a competent appeal, the applicant needed a certified copy of the order and there is evidence that the applicant drew-up a draft order, sent it to Mr. Oduol for approval and that Mr Oduol did approve the draft order on the 2nd May, 1996. That would not be the end of the matter for the applicant for the approved order had be signed and certified by the Deputy Registrar of the High Court. Mr. Lepelley says he sent the order to the Deputy Registrar on the 6th May, 1996 and as matters stand before me, there is nothing to contract that assertion. At page 137 of the record of appeal within which this application is filed, it is shown that the Deputy Registrar certified the order on the 29th July, 1996. The appeal was lodged on the 15th August, 1996. As Mr. Lepelley correctly points out, a certificate of delay is only required in respect of proceedings. There was accordingly no occasion to look for a certificate of delay. In these circumstances, it would be wrong to refuse the applicant the extension it seeks. Accordingly, I allow this application and extend the time within which to lodge the appeal to the 15th August, 1996. The costs of this application shall he in the appeal. Those shall be my orders.

Dated and delivered this 16th day of April, 1996.

R.S.C. OMOLO

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR