



**IN THE COURT OF APPEAL
AT NAIROBI**

CIVIL APPEAL NO. 139 OF 1995

JOSEPH GICHUKI.....APPELLANT

AND

GRACE MWIHAKI.....RESPONDENT

(Being an appeal against the judgment of the High Court of Kenya at Nairobi (Hon. Mr. Justice G.P. Mbiti) dated 19th May, 1993

in

H.C.C.C. NO. 5805 OF 1990

RULING OF THE COURT

On 30th day of June, 1995 a learned single judge of this court granted extension of rime to the respondent to file an appeal against the judgment and decree of the superior court (Mbiti J.) This appeal therefore should have been filed by 30th July, 1996. This appeal was filed on 10th August, 1996 without any leave having been obtained to file this appeal some eleven days out of time. This appeal is therefore incompetent. The application therefore succeeds and this appeal itself is struck out with costs to the applicant (respondent to the appeal) who will also have costs of the appeal.

Dated and delivered at Nairobi this 30th day of September, 1996.

R.O. KWACH

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JUDGE OF APPEAL

A.M. AKIWUMI

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JUDGE OF APPEAL

A.B. SHAH

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR