

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(Coram: Hancox, J A (In Chambers)

CIVIL APPLICATION NO NAI 65 OF 1985

(In the matter of an intended appeal)

BETWEEN

CALEB H AKWERA APPLICANT

AND

EAST AFRICAN CONSULTANTS RESPONDENT

(Application for extension of time to file an intended appeal from a Ruling of the High Court of Kenya at Nairobi (Platt, J) dated May 3, 1983 In

High Court Civil Application No 1900 of 1974)

RULING

No certificate of delay has been produced, and therefore the exclusion period provided for in rule 81 of this court's Rules cannot operate. But even taking the matter at its highest in favour of the applicant the proceedings were collected by Mrs Khaminwa of Messrs Khaminwa & Khaminwa on June 11, 1985, according to her affidavit of February 13, 1986. Accordingly the record and memorandum of appeal, (the notice for which was filed as far back as May 16, 1983, and the action itself begun in 1974) were due to be filed at the latest by the August 10, 1985. The notice of motion seeking enlargement of time was filed on July 30, 1985.

However, according to the court letter of May 24, last the proceedings and judgment were ready for collection on that date. So if the 60 day period were to be reckoned from then, allowing for 2 days for delivery in Nairobi, it would have expired on July 25, 1985.

I am afraid the delays in this case have already been far too long even after a second adjournment before me the necessary certificate to support the foregoing has not been forthcoming.

Exercising my discretion under rule 4, I am not prepared to extend the time for filing the record of appeal for what in effect is well over 2 years after it was due.

The Notice of motion dated July 30, 1985 is accordingly dismissed with costs.

Dated at Nairobi this 13th day of March, 1986.

ARW Hancox

Judge of Appeal

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

DEPUTY REGISTRAR