



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT ELDORET**

Civil Appeal (Appli) 230 of 2007

STANLEY K. CHEBIATOR APPLICANT/RESPONDENT

AND

- 1. LUCAS CHANGWONY**
- 2. NICHOLAS KOMEN**
- 3. JAMES CHANGWONY**
- 4. JOSEPH CHEPKOIYA..... RESPONDENTS/APPELLANTS**

(Application to strike out Civil Appeal No. 230 of 2007 being an appeal from a ruling of the High Court of Kenya at Eldoret (Gacheche, J) dated 13th June, 2006

in

H.C. Civil Appeal No. 43 of 1996)

RULING OF THE COURT

The motion dated 23rd October, 2007 seeks an order that Civil Appeal No. 230 of 2007 be struck out for, among other reasons, that it was filed out of time without leave. The applicant is Stanley K. Chebiator, the respondent in the appeal. Although the respondents had filed a replying affidavit opposing the application, their counsel on record, Mr. Gicheru, now says he has reconsidered the matter and does not wish to oppose the application, quite properly so, because clearly the record of appeal was filed out of time without leave.

In the circumstances, we allow the application and strike out the aforesaid appeal, with costs both of the application and the appeal to the applicant/respondent. It is so ordered.

Dated and delivered at Eldoret this 10th day of April, 2008.

S.E.O BOSIRE

.....

JUDGE OF APPEAL

E.O. O’KUBASU

.....

JUDGE OF APPEAL

W.S. DEVERELL

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR