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REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT KISUMU
CORAM: TUNOI, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI. 203 OF 2004

BETWEEN

JOHN AYUKO.....APPLICANT
AND
BEATRICE NYAMBUTERI.....RESPONDENT

(Being an application for extension of time to file a notice of appeal out of time against the ruling & order of the High Court of Kenya at Kisumu (Tanui, J) dated 5th February, 2004

in
H.C.C.C. NO. 319 OF 2003)

RULING

This is an application for extension of time within which to file a memorandum of appeal and record of appeal against the ruling and decision given by *Tanui, J.* on 5th February, 2004 in Kisumu H.C.C.C. NO. 319 of 2002.

The delay involved is about two months and the decree the subject matter of the intended appeal is in the region of Shs.2,500,000/=.

It is true, there could have been negotiations for a settlement out of court and confusion about representation of the respondent. But, I am of the view that the applicant is not entirely to blame for the delay.

Moreover, the delay of about two months in a situation like the one appertaining herein cannot be said to be inordinate. I am also informed that the applicant is ready, now, to lodge the intended appeal.

I will exercise my discretion in favour of the applicant and grant leave to lodge an appeal out of time. The applicant shall file and serve the memorandum of appeal and the record of appeal within 21 days hereof.

The applicant shall pay to the respondent the costs of this application which I assess at Shs.20,000/=.

These shall be paid within 14 days hereof.

DATED and DELIVERED at KISUMU this 25 th day of November,

P.K. TUNOI

.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR