



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: BOSIRE, JA (IN CHAMBERS))**

**CIVIL APPLICATION NO. NAI.2 OF 2003**

**BETWEEN**

**NAFTALI RUTHI KINYUA T/A CITADEL FREIGHTERS ..... 1ST APPLICANT**

**PETER MWANGI MBUTHIA ..... 2ND APPLICANT**

**AND**

**KENYA COMMERCIAL BANK LTD ..... 1ST RESPONDENT**

**DANIEL NYANGOYA AUMA ..... 2ND RESPONDENT**

(Application for an order that the record of civil appeal

No.333 of 2002 already filed and served be accepted

and be deemed to have been properly filed and served

or for extension of time to file and serve record of

appeal from the ruling of the High Court of Kenya at

Nairobi Milimani Commercial Court (Justice Khamoni

J.) dated 21st May, 2001

in

H.C.C.C.NO.653 of 2001

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**ORDER**

In view of the fact that the 2nd respondent was not personally served with a hearing notice for today's hearing and considering that counsel for the applicants while fully aware that Messrs. Gitau Kariuki, advocate had ceased to act for the 2nd respondent, served the said advocate with this motion, it will not be fair to proceed with the hearing of this matter on the question of urgency before the 2nd respondent is served. Accordingly this matter is taken out of the hearing list for today and is stood over generally. The applicants to pay the 1st respondent today's costs of Kshs.1,000/=

**Made at Nairobi this 12th day of February, 2003.**

**S.E.O. BOSIRE**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**