



IN THE COURT OF APPEAL
AT MOMBASA

(CORAM: GICHERU, LAKHA & O'KUBASU, JJ.A.)

CIVIL APPLICATION NO. 372 OF 2001

BETWEEN

VICTORIA K. WILLS APPLICANT

AND

BURKHARD KOARTIS RESPONDENT

(Application to strike out a notice of appeal in an intended appeal from the judgment and decree of the High Court of Kenya at Mombasa (Waki, J.) made on 3rd September, 1999

in

H.C.C.C. NO. 579 OF 1993)

RULING OF THE COURT

We have before us an application to strike out a notice of appeal filed on 14th September, 1999 as no appeal has been filed within the prescribed time. There is no application for copies of proceedings under rule 81. Although it is said that an application for an extension has been made under rule 4, this is not exhibited. The intended appeal is against the judgment of the superior court delivered on 3rd September, 1999. We are not persuaded that there is any reason why the notice of appeal should not be struck out.

The notice of motion dated 22nd June, 2001 succeeds. The notice of appeal filed on 14th September, 1999 is struck out with costs including the costs of the motion.

Dated and delivered at Mombasa this 25th day of January, 2002.

J. E. GICHERU

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JUDGE OF APPEAL

A. A. LAKHA

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JUDGE OF APPEAL

E. O'KUBASU

.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR