

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT NAKURU

CORAM: BOSIRE J.A. (IN CHAMBERS)

CIVIL APPLICATION NO. NAI 425 OF 2001 (NKU 41/01)

BETWEEN
B.P. (K) LIMITED APPLICANT

AND

INDUSTRIAL & COMMERCIAL

DEVELOPMENT CORPORATION (ICDC)

STEPHEN K. SUGUT RESPONDENTS

(An application for extension of time to serve notice and record of appeal out of time in an intended appeal from the ruling of the High Court of Kenya at Nakuru (Ondeyo J) dated 28th August, 2000 in ELD. H.C.C.C. NO. 121 OF 1999)

RULING

This is an application under rule 4 of the Court of Appeal Rules for an extension of the time within which to serve a Notice of Appeal on one Stephen K. Sugut who is named as second defendant in Eldoret High Court Civil Case No. 121 of 1999. The applicant unsuccessfully applied for a temporary injunction against Industrial and Commercial Development Corporation named in the aforesaid suit as first defendant.

The application was not served on the second defendant. The applicant was aggrieved and lodged a Notice of Appeal announcing its intention to challenge the decision of the superior court. A copy of the said notice was served on the first defendant but not on the second. The applicant says that it was by oversight that the Notice of Appeal was not served on the second defendant and now requests that I exercise my discretion in its favour and extend the time as prayed. I have considered the matter and although the reason for not serving the second defendant is not adequate, I am minded to exercise my

discretion in favour of extending the time as prayed. Accordingly I extend the time within which to serve a Notice of Appeal on the second defendant by seven days from the date hereof. I make no order as to costs.

Dated and delivered at Nakuru this 22nd day of February, 2002.

S. E. O. BOSIRE

JUDGE OF APPEAL

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

DEPUTY REGISTRAR