



**IN THE COURT OF APPEAL  
AT NAIROBI  
CORAM: SHAH, J.A. (IN CHAMBERS)  
CIVIL APPLICATION NO. NAI. 50 OF 2002 (UR. 29/2002)**

**BETWEEN**

**AFRICAN AIRLINES INTERNATIONAL LIMITED .....APPLICANT**

**AND**

**THE EASTERN AND SOUTHERN AFRICAN TRADE &**

**DEVELOPMENT BANK (THE PTA BANK) .....RESPONDENT**

**(An application for extension of time to file notice of appeal and record of appeal in an intended appeal from the ruling of the High Court of Kenya at Nairobi (Hon. Hewett, Comm. of Assize) dated 20th April, 2000**

**in**

**H.C.C.C. NO. 1361 OF 1999)**

\*\*\*\*\*

**RULING ON URGENCY**

On 8th March, 2002 I declined to certify the application lodged by the applicant **African Airlines International Limited** on 7th March, 2000 as urgent. I have to-day heard both counsel on an inter-parte hearing as regards urgency as provided for in Rule 47(5) of the Rules of this Court. I am not deciding, although I was addressed on the issue at some length, whether an appeal lies against the original order declining to grant an injunction, when the refusal to grant an injunction was the subject of a review application which application was dismissed, not on merits, but on a procedural point. That issue may properly be within the jurisdiction of the single judge who will eventually hear this application.

Coming to the issue of the urgency as regards the hearing of the application (which is a matter within my discretion) I remind myself that property sought to be sold is a substantial one. It is situate within the airport area. I also remind myself that once a property such as that is disposed off the applicant's recourse thereto will have gone. It may well be in the interests of the respondent to know what lies in store for it eventually and it may be better if that fate is known earlier than, rather, later. This Court does not shun away from extra work.

Having considered all that has been said to me I am now inclined to grant the certificate of urgency. Both parties will have the opportunity, of course, of arguing the matter fully first before a single judge. I certify the application as urgent. Dated and delivered at Nairobi this 18th day of March, 2002.

**A.B. SHAH**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original

**DEPUTY REGISTRAR.**