



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT KISUMU**  
**(CORAM: TUNOI, J.A. (IN CHAMBERS))**  
**CIVIL APPLICATION NO. NAI. 451 OF 2001 (KSM. 61/2001)**

**BETWEEN**

**UNITED INSURANCE COMPANY LTD ..... 1ST APPLICANT**

**JOSHUA PETE T/A TIKA TOURS ..... 2ND APPLICANT**

**AND**

**PERESIA MUGA ..... RESPONDENT**

**(Application for extension of time to file and serve Notice of  
Appeal and Record of Appeal out of time from the Ruling  
of the High Court of Kenya at Kisumu (Mr. Justice B.K.  
Tanui) dated 1st October, 2001  
in  
H.C.C.C. NO. 86 OF 2001)**

\*\*\*\*\*

**R U L I N G**

In this reference, the delay involved is 25 days. Counsel for the applicants attributes the delay to the fact that the superior court did not notify him of the date for the delivery of the ruling the subject matter of the intended appeal. In my view, this explanation is reasonable and indeed satisfactory. Again, the period involved cannot, in the circumstances, be said to be inordinate.

Having perused the material presented to me in this application, I think that the intended appeal is meritorious. It has, for example, been urged that the ruling is illegal in that it penalizes or condemns a party without due compliance with the rules of the Court. I exercise my discretion in favour of the applicants and grant the application as prayed. Leave is hereby granted to lodge and serve the notice of appeal out of time. This shall be done within 14 days hereof. The record of appeal shall be filed 14 days after the service of the notice of appeal.

The respondents shall have the costs of this application which I assess at Shs.3,000/= and which must be paid on or before 20th March, 2002.

**Dated and delivered at Kisumu this 13th day of March, 2002.**

**P.K. TUNOI**

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**