



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**CIVIL DIVISION**

**CIVIL MISC APPL NO. 429 OF 2001**

**ELIZABETH CHERUIYOT..... APPLICANT**

**AND**

**HUDSON WANAMBISI KAMULAMBA..... RESPONDENT**

**RULING OF THE COURT**

The Notice of Appeal lodged by the respondent on 1st December, 2001 was not served on the applicant's advocates until 18th December, 2001 some 11 days out of time. Upto now there has been no application for extension of time to deem the service as having been done in time. Ms. Sitati argued that the service of the notice of appeal was not effected in time as she could not get a signed copy of the notice of appeal in good time. It is not necessary to wait till the superior Court Registrar signs the notice of appeal in order to serve a copy thereof on the respondent. A stamped copy can be served. In these circumstances, the Notice of appeal ought to be struck out. It is ordered struck out. The applicant will have costs of this application. We need not go into other issues raised by Mr. Katwa for the applicant. We also order that the stay order granted by this Court on 16th March, 2001 is hereby vacated.

**Dated and delivered at Nairobi this 23rd day of April, 2002.**

**P.K. TUNOI**

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**JUDGE OF APPEAL**

**A.B. SHAH**

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**JUDGE OF APPEAL**

**M. Ole KEIWUA**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**