

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: LAKHA, OWUOR & O'KUBASU, J.J.A)

CIVIL APPLICATION NO. NAI. 254 OF 2001

BETWEEN

SHIRLEY LUCKHURST APPLICANT

AND

K.H. OSMOND ADVOCATE 1ST RESPONDENT

S.M. MWENESI 2ND RESPONDENT

(Application to strike out a Notice of appeal in an intended appeal from the Ruling of the High Court of Kenya at Nairobi(Mr. Justice Githinji) dated 17th May, 2000

in

H.C.C.C NO. 3012 OF 1997 (O.S)

RULING OF THE COURT

The application before us is for striking out the Notice of appeal filed herein on 24th May, 2000 on the ground that the time for filing the intended appeal has expired. We are satisfied and in the absence of any evidence that the alleged letter requesting for the proceedings from the registry was indeed received and copied to the applicant, the time has expired and the respondents cannot take advantage of the proviso to Rule 81(2). In that regard, the Notice of appeal is hereby struck out with costs to the applicant.

Dated and delivered at Nairobi this 28th day of May, 2002.

A. A. LAKH

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL

E. O. O'KUBASU

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JUDGE OF APPEAL

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