

IN THE COURT OF APPEAL

AT NAIROBI

CIVIL APPEAL NO 286 OF 2001

May 22, 2002

CORAM: OMOLO, TUNOI & LAKHA

**UHURU HIGHWAY DEVELOPMENT LTD &
OTHERS.....APPELLANTS**

V

**CENTRAL BANK OF KENYA DEPOSIT FUND PROTECTION BOARD & 3
OTHERS.....RESPONDENTS**

Civil Practice and Procedure - adjournment – granting an application for adjournment – factors that a court considers before allowing such application.

The advocate of one of the respondents applied for an adjournment due to the fact that he was ill. A medical report from a reputable hospital was produced to support the application. The authenticity of the report was not challenged.

Held:

1. The application for adjournment in this case was made upon reasonable grounds, namely, an illness or incapacity to represent one of the main parties to the appeal.
2. If an adjournment was refused in this case, one of the parties to the appeal would not be represented thus occasioning it injustice.

Application allowed.

Cases

No cases referred to.

Statutes

No statutes referred.

May 22, 2002, the following Ruling of the Court was delivered. We think that the medical report that has been shown to us is from a reputable hospital; and moreover, no one has challenged its authenticity. It would appear therefore that Mr Ojiambo is prevented from a reasonable cause, namely, an illness or incapacity to represent the firm of M/s Oraro & Company which is one of the main parties to the appeal. We believe that if we refuse adjournment it would mean that the said firm would not be represented in the appeal and thus occasioning it injustice. In the interests of justice we allow the application for adjournment. The appeal is taken out of to-day's and to-morrow's cause list and is stood over to new dates to be obtained in the Registry on a priority basis.

We advise the Deputy Registrar to assign at least four days for the hearing of the appeal. We order that the costs of today shall be in the appeal in any event.