

IN THE COURT OF APPEAL

AT NAKURU

(CORAM: OMOLO, TUNOI & OWUOR, J.J.A)

CIVIL APPEAL(APPLICATION) NO. 304 OF 2000

BETWEEN

**KAMERE & CO. ADVOCATESAPPLICANT/RESPONDENT
AND
GRESSWELL, MANN & DOD ADVOCATESRESPONDENT/APPELLANT**

**(An application to strike out an appeal from the Judgment
of the High Court of Kenya at Nakuru (Mr. Justice
Rimiat) dated 17th May, 2000**

in

H.C.C.C NO. 542 OF 1996(O.S)

RULING OF THE COURT

The originating summons before the superior court was brought under **Order 52 Rule 7 and 10** of the Civil Procedure Rules. An appeal would lie as of right only under **rules 4, 5, 6 and 6A** of that order. One, therefore, requires the leave of the superior court or of this Court to be able to mount a competent appeal under the remaining rules of the order. Mr. Kimani for the respondent concedes that they did not obtain leave. The Court, accordingly, has no jurisdiction to hear the appeal or even to determine whether the appeal was or was not lodged in time. We allow the notice of motion lodged in this Court on 23rd August, 2001 and order that **Civil Appeal No. 304 of 2000** lodged in the court on 27th October, 2001 be and is hereby struck out with costs. We award the costs of the motion to strike out the appeal to the applicant.

Dated and delivered at Nakuru this 20th day of September, 2002.

R.S.C OMOLO

JUDGE OF APPEAL

P. K. TUNOI

JUDGE OF APPEAL

E. OWUOR

JUDGE

OF

APPEAL

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

DEPUTY

REGISTRAR

