



REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAKURU
(CORAM: LAKHA, J.A. (IN CHAMBERS))
CIVIL APPLICATION NO. NAI. 121 OF 2002

BETWEEN

JOSEPH ERIC OWINOAPPLICANT

AND

EUNICE ORARE WERERESPONDENT

(Being an application for extension of time to lodge and serve the Notice of Appeal and Record of Appeal out of time from the Judgment and Decree of the High Court of Kenya at Eldoret (Aganyanya, J.) dated 10th August, 1989

in

H.C.C.C. NO. 48 OF 1988)

R U L I N G

This is an application under rule 4 of our rules seeking an extension of time to file and serve a notice of appeal and a record of appeal for an appeal from a decision of the superior court given on 10 August, 1989 .

An earlier application was struck out for being out of time. This was on 21 February, 2002 . This application was filed on 2 May 2002 . The explanation is time was taken up in obtaining instructions. In my judgment this delay of about 22 months is inordinate particularly when it was not suggested the client was overseas. I think there was less than proper diligence shown.

There can be no indulgence unless delay is properly explained. This is not the case here. I am unable to exercise my discretion in favour of the applicant.

The application is dismissed with costs.

Made at Nakuru this 19th day of September, 2002. A.A. LAKHA

JUDGE OF APPEAL

