



IN THE COURT OF APPEAL

AT NAIROBI

CORAM: KWACH, OMOLO & OWUOR, JJ.A.

CIVIL APPEAL(APPLICATION) NO. 72 OF 2001

BETWEEN

K. H. OSMONDAPPELLANT

AND

DAIMA BANK LIMITED1ST RESPONDENT

WHITESTONE AUCTIONEERS (K) LTD2ND RESPONDENT

(An appeal from the judgment and decree of the High Court of Kenya (Hon Jean Gacheche, Commissioner of

Assize) dated 12th July, 2000

in

H.C.C.C. NO. 3052 OF 1997)

RULING OF THE COURT

Mr Miller , for the appellant, concedes that the respondent had a choice under **rules 90 & 91** of the Court of Appeal Rules to file a Notice of Cross-Appeal either within 30 days after service of the Record of Appeal on it or 30 days before the date of the hearing of the appeal. The appeal was fixed for hearing on 11th June, 2002. The Notice of Cross- Appeal was filed on 4th June, 2000. This was done well within the time limited by the Rules. There is no merit in this application. It is dismissed with costs to the first respondent.

Dated and delivered at Nairobi this 22nd day of October, 2002.

R. O. KWACH

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JUDGE OF APPEAL

R.S.C. OMOLO

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR