



**IN THE COURT OF APPEAL**

**AT NAIROBI**  
**(CORAM: OWUOR, J.A (IN CHAMBERS))**

**CIVIL APPLICATION NO. NAI 248 OF 2002 (124/2002 UR)**

**BETWEEN**

**PETER G. N. NG'ANG'A .....APPLICANT**

**AND**

**1. STANDARD CHARTERED BANK OF KENYA LTD)**

**2. HARRISON MAINA KARIUKI ).....RESPONDENTS**

**(Application for extension of time to serve Notice of  
appeal out of time from the Judgment and decree of  
the High Court of Kenya at Nairobi (Mr. Justice  
Mwera) dated 5th July, 2002**

**in**

**H.C.C.C NO. 1037 OF 2000)**

**\*\*\*\*\***

**R U L I N G**

In this application filed under the provision of rule (4) of the Rules of this Court, the applicant seeks an extension of time for him to be enabled to serve a Notice of appeal on the respondent in terms of rule 76.

The ruling he intends to appeal against was in respect of a preliminary point taken in the proceedings in the superior court delivered on the 5th day of July, 2002. The Notice of appeal was filed on 12th July, 2002, well within the time prescribed. However, he did not serve the Notice of appeal on the respondents within seven days from the date of lodging the same in court. It is on this basis that he seeks for an extension of that period to be able to serve the Notice of appeal.

The reason given for non-compliance with rule 76 both in the affidavit sworn in support of the Notice of motion and the submission before me is that counsel through inadvertence erred and did not serve the notice as required. It was an error in his part. I accept what he says and see no reason why I should not exercise my discretion in the applicant's favour. In this regard, this application is hereby granted. The applicant shall serve the Notice of appeal herein already lodged, to the respondents within 4 days from today's date.

Dated and delivered at Nairobi this 1st day of October, 2002.

**E. OWUOR**

**.....**

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**