

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT NYERI
CORAM: OWUOR, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI. 151 OF 2002(NYR.18/2002)

BETWEEN
ATANASIO MWIKA.....APPLICANT
AND

1. LAND ADJUDICATION OFFICER –
NYAMBENE DIRECTOR OF LAND ADJUDICATION
2. ICHENGI THURANIRA.....RESPONDENTS

(An application for extension of time to file notice and record of
appeal out of time against an appeal from a Ruling & Order of the
High Court of Kenya at Meru (Khamoni, J) dated 24/5/99

in
H.C.MISC. C. NO. 112 OF 1997)

RULING

This application brought under rule (4) of the Rules of this Court, seeks for an order extending time for the filing of a notice of appeal and thereafter lodging a record of appeal.

The matter in the superior court was finalized on 24th May, 1999 and a notice of appeal filed by the applicant herein on 3rd June, 1999.

The 1st and 2nd Respondents were accordingly served with the notice of appeal within the prescribed time in terms of rule 76(1). Excluded from the service was the 3rd respondent in this application who no doubt was a person affected by the appeal.

For this reason Civil Appeal No. 106 of 1999 was struck out by this Court, hence the filing of this application on 30th May, 2002.

The affidavit sworn by the applicant in support of this application does not clearly state the reason for the 20 days delay in filing the application. That notwithstanding and in the circumstance of this case, such delay was not inordinate so as to stop me from exercising my discretion in favour of the applicant. In the result the application is hereby granted. The applicant do file a notice of appeal within 7 days from today's date and thereafter to lodge his record of appeal within 14 days from the date of filing the notice. The costs of the application shall be in the appeal.

Dated and delivered at Nyeri this 1 st day of November, 2002.

E. OWUOR
.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR.