



**IN THE COURT OF APPEAL  
AT NAIROBI  
CORAM: GICHERU, SHAH & LAKHA, JJ.A  
CIVIL APPLICATION NO. NAI. 67 OF 2000**

**BETWEEN**

**JOSEPH KARIUKI NJOROGE.....APPLICANT**

**AND**

**STEPHEN RURIGI NJOROGE .....RESPONDENT**

**(Reference against refusal by a single Judge (Omolo, JA)  
in an application for extension of time to file  
notice and Record of appeal in an intended appeal  
from the High Court of Kenya at Nairobi (Sheikh  
Amin, J) dated 22.9.96**

**in**

**H.C.C.C. NO. 129 OF 1995)**

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

**RULING OF THE COURT**

This is a reference to full bench whereby the applicant seeks reversal of the ruling of the learned single Judge (Omolo, JA) whereby he declined to grant an extension of time to file and serve a notice of appeal and record of appeal. We bear in mind the fact that we are dealing with the exercise of discretion by the learned single Judge. In the exercise of his discretion he took into account the fact that the letter bespeaking copies of proceedings was not sent to the registry of the superior court until 17th April, 1997 some six months out of time. A copy of that letter was not even sent to the respondent. The learned Judge correctly pointed out that for all practical purposes the letter of 17th April, 1997 was of no assistance.

The learned single Judge also properly considered the issue of lack of certificate of delay which would have shown, if at all, the alleged delay attributed to the registry of the superior court.

The learned single Judge was properly of the view that the delay in lodgment of the appeal for nearly 4 years was so inordinate as not to permit him to exercise his discretion in granting the application in question.

We see no error, misdirection or lack of consideration of issues raised by the applicant, on part of the learned single Judge. Accordingly this reference is dismissed with costs.

**Dated and delivered at Nairobi this 13th day of March, 2001.**

**J.E. GICHERU**  
.....  
**JUDGE OF APPEAL**

**A.B. SHAH**  
.....  
**JUDGE OF APPEAL**

**A.A. LAKHA**  
.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR.**