



**IN THE COURT OF APPEAL  
AT NAIROBI  
(CORAM: BOSIRE, JA (IN CHAMBERS))  
CIVIL APPLICATION NO. NAI. 210 OF 2001 (UR.110/2001)  
BETWEEN**

**PHILEMON K. ROTICH .....APPLICANT**

**AND**

**1. JOHN KIHARA KARANJA)  
2. SAMUEL MOMANYI ).....RESPONDENTS**

(An application for leave that service of Notice of Appeal and any other court process need not be effected on the Respondents)(Judgment and decree of Hon. Lady Justice Ang'awa dated 13th June, 2001

in

H.C.C.C. No.1229 of 1999)

**R U L I N G**

This is an application under rule 76(1) of the Court of Appeal Rules. The applicant was the plaintiff in Nairobi High Court Civil Case No.1229 of 1999. His suit proceeded ex parte as the respondent as defendant neither appeared nor filed defence. His suit was however dismissed by Ang'awa J. The applicant has filed a Notice of Appeal and in the present application he seeks dispensation of service of the Notice of Appeal, and other court processes contending that since the defendant/ respondent did not participate in the proceedings in the court below, it is not necessary to serve him.

I have considered the application. The court has power under rule 76(1), aforesaid to dispense with service of a Notice of Appeal and other processes. In exercise of that power, I allow the application and grant the applicant leave to dispense with the service not only of the Notice of Appeal but also all other court processes relating to the hearing of his intended appeal.

The costs of this motion shall be in the intended appeal. Dated and delivered at Nairobi this 9th day of July 2001.

**S.E.O. BOSIRE**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**