

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAKURU
(CORAM: TUNOI, J.A (IN CHAMBERS))
CIVIL APPLICATION NO. NAI. 94 OF 2001 (NAK. 15/2001)
BETWEEN

JOHN NJOROGI KARUA APPLICANT
AND
BETTY NGENDO GACHIE 1ST RESPONDENT
AMOSAM BUILDERS & DEVELOPERS LIMITED 2ND RESPONDENT
NAKURU MUNICIPAL COUNCIL 3RD RESPONDENT

**(Application for extension of time within which to serve
Notice of appeal in an appeal against the Judgment
and decree of the High Court of Kenya at Nakuru (Mr.
Justice Rimita) dated 26th January, 2001
in
H.C.C.C NO. 104 OF 1992)**
R U L I N G

This is an application to extend time within which the Notice of appeal dated 7th February, 2001 in Nakuru H.C.C.C No. 104/92 should be served upon the first respondent and to treat the Notice of appeal that was served outside the prescribed time as having been timeously served. In my view the application ought to be granted. Firstly, the second and third respondents were properly served with the Notice of appeal. Secondly, the delay involved in effecting service upon the first respondent is a single day; and thirdly, an appeal in respect of the dispute between the parties has already been lodged in court and is pending determination.

I do not believe that the delay of one day can earnestly be said to amount to an inordinate delay so as to militate against me exercising my discretion in favour of the applicant. I do not believe that the respondents will be prejudiced in any manner if I accede to the application. The application is granted as prayed for in the Notice of motion of 26th February, 2001 and lodged in this Court on 12th March, 2001. The costs of this application shall be in the intended appeal.

Dated at Nakuru this 26th day of September, 2001.

P.K.

TUNOI

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JUDGE OF APPEAL

Leave to file Reference granted.

P.K.

TUNOI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR