



**IN THE COURT OF APPEAL  
AT NAIROBI  
CORAM: OMOLO, TUNOI & O'KUBASU, J.J.A.  
CIVIL APPLICATION NO. NAI 248 OF 2001 (132/01 UR)**

**BETWEEN**

**INDUSTRIAL & COMMERCIAL DEVELOPMENT CORPORATION .....APPLICANT**

**AND**

**SUM MODEL INDUSTRIES LTD ..... RESPONDENT**

**(An application for extension of time to file notice & record of appeal  
in an intended appeal from a judgment of the High Court of Kenya  
at Nairobi (Mboghli J) dated 16th February, 2000**

**in**

**H.C.C.C. NO. 3389 OF 1994)**

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**RULING OF THE COURT**

There is absolutely no merit in this reference. The previous appeal was struck out on 9th July, 2001; the motion was filed on 19th July, 2001. Mr Keyonzo concedes there was no delay there. But Mr Keyonzo wanted the single Judge to refuse the application for extension of time because of the very same reasons which led to the previous appeal being struck out. The single Judge refused to accede to that objection and held that the applicant before him had been sufficiently punished when its appeal was struck out. We see nothing to show any wrong exercise of discretion. We dismiss this reference with costs to the respondents.

**Dated and delivered at Nairobi this 4th day of December, 2001.**

**R. S. C. OMOLO**  
.....  
**JUDGE OF APPEAL**

**P. K. TUNOI**  
.....  
**JUDGE OF APPEAL**

**E. O. O'KUBASU**  
.....  
**JUDGE OF APPEAL**

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