

IN THE COURT OF APPEAL

AT NAIBOBI

CIVIL MISCELLANEOUS APPLICATION NO. 217 OF 2001

JOSEPH MASO KIILU APPLICANT

AND

KINGSWAY TYRES & AUTO MART LIMITED RESPONDENT

RULING

This is an application for extension of time in which to file Notice of Appeal and Memorandum of Appeal. The application is necessitated by the fact that the notice of appeal having been served on respondent's counsel four days out of time then the entire appeal had to be struck out. This means the applicant has to start the process a fresh. Mr. Kitonga attributes the error to his office while Mr. Akide for respondent has, in my view very properly, stated that he had no objection to the application. I am satisfied that this is a proper case in which I should exercise my discretion in favour of the applicant. Hence the application is allowed and the notice of appeal is to be filed within seven (7) days from the date of this ruling and a memorandum of appeal to be filed within 21 days from the date the notice of appeal is filed. Costs of this application shall abide the outcome of the intended appeal.

Dated at Nairobi this 3rd day of December, 2001

E. O. O'KUBASU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR