



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT NAIROBI  
(BOSIRE, OWUOR & KEIWUA J.J.A)  
CIVIL APPEAL NO. 99 OF 1998  
BETWEEN**

- 1. MUMBI W/O MWANGI )
- 2. GEOFFREY KINYUA MWANGI ).....
- 3A.PPLIWCAAKNOTNSYU W/O MWANGI )
- 4. STEPHEN MWANGI MURIITHI )

**AND**

- 1. PUBLIC TRUSTEE )
- 2. JUSTINE MUNDIA MWANGI )
- 3. GEOFFREY GICHOHI MWANGI )
- 4. CHARLES MAINA MWANGI )
- 5. LEONARD NJOGU MWANGI )
- 6. FRANCIS NGATIA MWANGI )
- 7. WANJIKU W/O MWANGI )
- 8. KIINI W/O MWANGI )..... RESPONDENTS

**(Appeal from the ruling and order of the High Court of  
Kenya at Nyeri (Honourable Justice Mary Ang'awa)  
dated 30th November, 1995**

**in  
HC.C. Misc. Adm. Cause No.43 of 1983(O.S)**

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**RULING OF THE COURT**

Counsel for the appellants, Mr Muthoga, applies for the adjournment of this appeal to enable him move this court for leave to appeal which it would appear was not obtained as required by the Provisions of Section 75 of the Civil Procedure Act. Mr Marete for the Ist respondent, and Miss Mukuha for the 2nd to 8th respondents oppose the application arguing that the dispute between the parties has been outstanding for a long time, and should therefore, be resolved expeditiously. We agree there is need for

the expeditious disposal of this matter. However, the dispute between the parties revolves round a residual estate of a deceased person, and appears to have generated a lot of heat between the parties. It is important that it be resolved appropriately, and all the parties be given a chance to urge their respective cases.

An order granting leave to appeal is one which may be brought on record by a supplementary record of appeal by dint of the provisions of rule 85(2A) as read with rule 89 (1) of the Rules of this court. So its omission from the record of appeal does not render the record of appeal incurably defective. We result we grant the application for adjournment, and take out the appeal from today's hearing list and stand it over to an early date to be refixed at the Registry, convenient to the court and the parties. The appellants shall pay the costs of the appeal as directed at Nairobi this 10th day of February 2000.

**S.E.O. BOSIRE**

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**JUDGE OF APPEAL**

**E. OWUOR**

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**JUDGE OF APPEAL**

**M. KEIWUA**

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**JUDGE OF APPEAL**

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