



REPUBLIC OF KENYA
COURT OF APPEAL AT KISUMU
CIVIL MISC APPL 371 OF 99
CORAM: BOSIRE, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI 371 OF 1999
BETWEEN JOSEPH OWOTSI WALWANGA APPLICANT
AND
KENYA COMMERCIAL BANK LTD.
THOMAS CHANGILWA MULUHYA RESPONDENTS
(Application for extension of time to lodge notice and
memorandum of appeal out of time from the ruling of
the High Court of Kenya at Kakamega (Tanui J) dated
18th January, 1999
in
H.C.MISC. A. 32 OF 1996)

R U L I N G

1. In this application, the applicant Joseph Owotsi Walwanga, seeks an order extending the time within which to file and serve a Notice of Appeal and thereafter a Record of Appeal.

The applicant contends that he could not file the notice of appeal timeously because on the date the ruling of the superior court, dated 18th January, 1999, was delivered he was not in court and he had not been given any prior notice that it would be delivered on that day. Mr Owinyi for both the respondents, concedes that the applicant was absent on the date of the ruling and cannot possibly controvert his assertion that he was not notified of the date of the ruling.

2. In the circumstances, and on the evidence before me, I am satisfied that the applicant has shown reasonable grounds for failing to file and serve a notice of appeal within the prescribed time in our rules, and in exercise of my discretion under rule 4 of the rules and extend the time within which to file and serve a notice of appeal by 10 days from the date hereof, and the time within which to file a memorandum

and record of appeal by a further 30 days from the date of filing the notice of appeal. The costs of this application to be in the intended appeal.

Dated and delivered at Kisumu this 23rd day of March, 2000.

S. E. O. BOSIRE

JUDGE OF APPEAL

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

DEPUTY REGISTRAR