



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: BOSIRE, J.A (IN CHAMBERS))**

**CIVIL APPLICATION NO. NAI.359 OF 1999**

**BETWEEN**

**MALINDI AIR SERVICES LTD..... IST APPLICANT**

**JOHN MAURICE CLEAVE ..... 2ND APPLICANT**

**AND**

**HALIMA ABDINOR HASSAN .....RESPONDENT**

**(An application for extension of time within which to  
file and serve a Notice of Appeal and an Appeal from  
the Ruling of the High Court of Kenya at Nairobi  
(Justice Mbogholi) dated 6th August 1998**

**in**

**H.C.C.C. No.1509 of 1998)**

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**R U L I N G**

This is an application for extension of time within which to file and serve a Notice of Appeal and thereafter a record of appeal. This is the second time the applicants have sought for a similar order. The first time the applicants applied and were granted the extension as a result of which extension they had Civil Appeal No.152 of 1999, filed, which on 8th December, 1999, was struck out because the order which was included in the record of appeal did not tally with the order appealed against. Thereafter brought this application. There was a delay of about 13 days before this application. The delay has been sufficiently explained. Moreover, the delay is not in my view, inordinate as will deny the applicants the extension sought in this application.

The jurisdiction of this court under rule 4 of the rules of this court is discretionary and unfettered. Although the applicants have in the past been guilty of several omissions, they are of the nature which are excusable. In exercise of my discretion under the aforesaid rule, I allow the application and extend the time within which to file and serve a Notice of Appeal by 10 days from the date hereof, and a further 30 days to file and serve a record of appeal. I make no order as to the costs of the application.

**Dated and delivered at Nairobi this 6th day of March, 2000.**

**S.E.O. BOSIRE**

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**