



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: O'KUBASU J.A (IN CHAMBERS))

CIVIL APPLICATION NO. NAI 136 OF 2000

BETWEEN

CHEMIGAS

LIMITED .....

APPLICANT

AND

BOC KENYA LIMITED .....

RESPONDENT

(An application for extension of time to file and serve the Notice of Appeal and record of Appeal in an intended Appeal from a Ruling and Order, of the High Court of Kenya at Nairobi (Gacheche, Commissioner of Assize) dated 15th December, 1999

in

H.C.C.C NO. 935 of 1999)

Originally 1969 of 1995

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R U L I N G

This is a Notice of Motion brought under Rule 4 of the Court of Appeal Rules. The applicant is seeking extension of time in which to file Notice of Appeal and Record of Appeal. The application is necessitated by the fact that an earlier appeal was struck out due to procedural defects in that Rules 13(2) and 85(1) (f) of this Court's Rules had not been strictly complied with. These defects have now been rectified and hence, the applicant wishes now to come to court afresh. This application is not opposed.

In view of the foregoing, I am satisfied that this is a proper case in which the unfettered discretion of this Court should be exercised in favour of the applicant. Hence this application is granted and the applicant is now to file Notice of Appeal within 7 days from today and to file Record of Appeal within 21 days from today. It is also ordered that the appeal be heard on priority basis.

As regards costs these will be awarded to the respondent.

**Delivered and dated at Nairobi this 30th day of May, 2000.**

E. O. O'KUBASU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR