



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NYERI

CORAM: GICHERU, J.A. (IN CHAMBERS)

CIVIL APPLICATION NO. NAI. 364 OF 1999 (NYR.21/99)

BETWEEN

KENYA INDUSTRIAL ESTATES LIMITED APPLICANTS

AND

1. TRANSLAND SHOE MANUFACTURERS LTD

2. WILSON WATUTUI KIIRU

3. GEOFFREY GIKONYO MATHU RESPONDENT

**(Application for extension of time to file Notice and
Record of Appeal from a Judgment of the High Court of
Kenya at Nyeri (Mr. Justice P. K. Tunoi) dated 18th
September, 1996**

in

H.C.C.C. NO. 160 OF 1988)

R U L I N G:

In **Civil Appeal No. 115 of 1998** wherein the applicant in this application had appealed against the order of Osiemo, J. refusing to set aside the judgment of Tunoi, J.A. dated 18th September, 1996 in **Nyeri High Court Civil Case No. 160 of 1988** this Court ***inter alia*** observed that there was an issue concerning the validity and credence of the judgment aforesaid which could not be overlooked and that the facts of the matter cried out aloud for justice. These are strong sentiments expressed by this Court and it is on their account that this application was made by the applicant. There is obviously an inordinate delay in making the present application as the judgment out of which the decree intended to be appealed from arises was delivered on 18th September, 1996 while the applicant's application which was prompted by the sentiments of this Court made on 26th October, 1999 as are mentioned above was made on 18th November, 1999. That delay notwithstanding, however, this Court has no jurisdiction to do injustice. On account of the sentiments of this Court as are referred to above, I would in the interests of justice exercise my discretion under ***rule 4*** of the Court of Appeal Rules in favour of the applicant and grant its application for extension of time to lodge and serve the Notice of Appeal and the record of appeal so that

the time for lodging its Notice of Appeal is extended by 7 days from the date of this ruling and the time of lodging the record of appeal is extended by 21 days from the date of lodging the Notice of Appeal within the extended time. The costs occasioned by this application assessed at Kshs. 3,000/= are awarded to the respondents.

Dated and delivered at Nyeri this 19th day of May, 2000.

J. E. GICHERU

JUDGE OF APPEAL

ORDER:

Respondents allowed to apply for a reference before the full Court.

J. E. GICHERU

JUDGE OF APPEAL

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

DEPUTY REGISTRAR