



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NYERI**  
**(CORAM: OWUOR, J.A. (IN CHAMBERS))**  
**CIVIL APPLICATION NO. NAI. 152 OF 1999 (NYR. 12/99)**  
**BETWEEN**

**MUNICIPAL COUNCIL OF MERU ..... APPLICANT**  
**AND**  
**NATIONAL HOUSING CORPORATION ..... RESPONDENT**  
**AMINA YUSUF & 52 OTHERS ..... INTERESTED PARTIES**

**(Application for leave to file an intended appeal out of time  
from the Ruling or Order of the High Court of Kenya at  
Meru (Justice Etyang) dated 1st August, 1997**

**in**  
**H.C.C.C. NO. 71 OF 1996)**

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**R U L I N G**

This is an application brought under **rule 4** of the Rules of this Court for me to exercise my discretion and extend the time for the applicant to file and serve the Notice of Appeal and Record of Appeal out of time. The intended appeal is against the order of Etyang, J. made on 10th August, 1997 at Meru in H.C.C.C. No. 71 of 1996.

The applicant being dissatisfied with that Ruling he filed Civil Appeal No. 261 of 1997 to this Court. The same was thereafter struck out by this Court on 12th May, 1999 as being incompetent for contravening **Rule 76(1)** of the Rules of this Court.

Immediately thereafter the applicant filed this application seeking for leave to enable him to mount a proper appeal. The reason for the delay has been sufficiently explained to me in that Counsel made a mistake and did not serve the interested party. I accept that as a genuine mistake and see no reason why I should not exercise my discretion in favour of the applicant; Counsel for the respondent's objection notwithstanding.

I hereby grant the leave so sought for the Notice of Appeal to be filed within 7 days from to-days date and thereafter the record of appeal to be lodged within 14 days from the date of filing of the Notice.

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

**E. OWUOR**  
.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**