



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT NAIROBI  
(CORAM: AKIWUMI, BOSIRE & O'KUBASU JJ.A)**

**CIVIL APPLICATION NO. NAI 298 OF 1998**

**BETWEEN**

**BENROSE FAST FOOD.....APPLICANT**

**AND**

**MURANGA PROPERTIES LTD .....RESPONDENT**

**(An application to strike out Notice of Appeal in the intended appeal from a decision/Ruling of the High Court at Nairobi (Justice Mbiti) dated 16th October, 1998**

**in**

**H.C.C.C. No.1424 of 1997)**

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**RULING**

The respondent Muranga Properties Limited was aggrieved by a ruling of the superior court in its civil case No.1424 of 1997, given on 16th October, 1997, and promptly filed a Notice of Appeal on 23rd October, 1997, declaring its intention to appeal against that decision. However, the respondent has to date not taken steps to file its appeal, and although its counsel was duly served with this application he has neither filed an affidavit in reply nor appeared to oppose the application. In absence of any explanation for that and there being no plausible or any reason to deny the applicant the orders sought in the instant application for order striking out the Notice of Appeal, we have no option but to grant the orders. Accordingly the Notice of Appeal filed on 23rd October 1997 in the above mentioned suit is struck out. Costs of the application to the applicant assessed at Kshs.10,000/=.

**Dated and delivered at Nairobi this 17th day of May 2000.**

**A.M. AKIWUMI**

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**JUDGE OF APPEAL**

**S.E.O. BOSIRE**

.....

**JUDGE OF APPEAL**

**E. O'KUBASU**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**