



REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI

(Coram: Gicheru, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. NAI. 26 OF 2000

BETWEEN

FRANCIS GICHARU KARIRI.....APPLICANT

AND

**PETER NJOROGI MAIRU as personal representative of MAIRU WANGARU
deceased.....RESPONDENT**

(An application for extension of time to file an Appeal

**out of time in an intended appeal from a judgment of the
High Court of Kenya at Nairobi (Lady Justice Owuor) dated
17/10/90
in
H.C.C.C. NO. 131 OF 1987)**

RULING:

In this Notice of Motion, the applicant has sought extension of time within which to lodge the notice and record of appeal against the decision of the superior court given on 17th October, 1990. His appeal NO. 186 of 1999 February, 2000 for the reason, it would appear to me, that the extension of time to lodge the notice of appeal granted to the applicant by the superior court under section 7 of the Appellate Jurisdiction Act, Chapter 9 of the Laws of Kenya may not have been valid and that there was no order under rule 4 of the Court of Appeal Rules extending time within which to lodge and serve the record of

appeal. The validity or otherwise of the extension of time to lodge the notice of appeal by the superior court and the absence of an order under rule 4 as are referred to above may in the circumstances of this application be a subject of debate. While that may be so, the ends of justice would not await the outcome of such debate. In the result, I in the exercise of my discretion under rule 4, supra, grant the applicant's application so that the time for lodging the notice of appeal is extended by 7 days from the date hereof and thereafter the record of appeal shall be lodged within 15 days from the date of lodging the notice of appeal. The costs occasioned by this application assessed at K.Shs. 3,000/ are awarded to the respondent in any event.

Dated and delivered at Nairobi this 21st day of July, 2000.

J.E. GICHERU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR