

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
CORAM: OMOLO, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI. 267 OF 2000 (UR.124/2000)

BETWEEN
SUSAN MUTHONI KAMAUAPPLICANT
AND
PETER KANYUARESPONDENT

(An application for extension of time to file an intended appeal from the judgment & decree of the High Court at Nyeri (Juma J) dated 17th November, 1999

in
H.C.C.C. NO.86 OF 1991)

R U L I N G

The application herein was filed under a certificate of urgency. All that the applicant seeks is to be allowed to file an appeal out of time. I think I should allow her the extension she seeks. I would not have bothered much about her lack of funds but it is equally clear to me that she did instruct her advocates to file a notice of appeal and she even made some deposit of money to those advocates. The first firm of advocates did not even file a notice of appeal which is a simple document, and does not require much money. The second firm of advocates took a wrong course and instead filed an application for stay even before checking whether a notice of appeal had been filed. It is clear the applicant has been let down by her advocates and this, I think, is a good reason upon which I can exercise my discretion in her favour. I accordingly allow this motion on the following terms:-

- (i) The applicant must file and serve on the respondent her notice of appeal within fourteen days of today's date.
- (ii) The record of appeal must be lodged within twenty-one days from the date of service of the notice of appeal on the respondent.
- (iii) The costs of this motion assessed at Shs.3,000/= shall be paid to the respondent by the applicant within thirty days of the date hereof.
- (iv) If all or any of these conditions are not complied with within the stipulated time, this motion shall stand dismissed with the costs as assessed.

Dated and delivered at Nairobi this 25th day of September, 2000.

R.S.C. OMOLO

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR