



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAKURU

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

CIVIL APPLICATION NO. NAI 437 OF 2001 (NKU 10/01)

BETWEEN

MARY RONO APPLICANT

AND

JANE RONO

WILLIAM RONO RESPONDENTS

(An application for extension of time to serve notice &

record of appeal out of time in an intended appeal

**from the judgment & decree of the High Court of
Kenya at Eldoret (Nambuye J) dated 12th June, 1997**

in

ELD. H.C.P. & A.C. NO. 40 OF 1988)

RULING

It is now trite law that an appellant whose appeal has been struck out as incompetent may apply under **rule 4 of the Court of Appeal Rules** for an extension of the time within which to lodge a competent appeal which is what the applicant in the present application has done. The applicant brought this application within two months of his appeal being struck out. The delay is long but not inordinate. In the circumstances, I am minded to exercise my discretion **under rule 4 of the Rules of this Court** and extend the time within which to file a fresh notice of appeal by 10 days and for lodging a record of appeal by a further 30 days from the date of filing the notice of appeal.

Costs of this application to the applicant assessed at KShs.2,500/= (two thousand five hundred), notwithstanding the request in the consent letter dated 22nd January, 2002, that costs be in the intended appeal. The respondents did not attend Court and there is no explanation for their non-attendance or that of their counsel on record. Hence my order that they meet the costs of the present application.

Dated and delivered at Nakuru this 22nd day of February, 2002.

S. E. O. BOSIRE
JUDGE OF APPEAL

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