



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL  
AT NYERI**

**CORAM: GICHERU, BOSIRE & OWUOR JJ.A**

**CIVIL APPEAL NO. NAI. 123 OF 2002(NYR 9/02)**

BETWEEN

IRENE WANJIRA MARARO..... APPLICANT

AND

JOSEPH NGUTHIRU KIN'GARUI..... RESPONDENT

(Application to strike out a Notice of Appeal from a  
Judgment and decree of the High Court of Kenya at  
Nyeri (Tunoi, J) dated 8.3.94

in

H.C.C.C NO. 268 OF 1991)

\*\*\*\*\*

**RULING OF THE COURT**

Counsel for the respondent was served with today's hearing notice but there is no appearance for respondent to defend this application. The Notice of Appeal sought to be struck out in this application was lodged in the superior court on 29th March, 1994. Despite extension of time by this Court to lodge the record of appeal on 24th October, 1995 the respondent has not lodged the appeal. Clearly therefore an essential step in the proceedings under **rule 80** Of the Court of Appeal Rules has not been taken. In the result, this application is granted so that the Notice of Appeal referred to above is struck out with costs to the applicant.

**Dated and delivered at Nyeri this 31st day of October, 2002.**

**J.E.GICHERU**  
**JUDGE OF APPEAL**  
**S.E.O. BOSIRE**  
**JUDGE OF APPEAL**  
**E. OWUOR**  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**



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