



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT MOMBASA  
(CORAM: KWACH, SHAH & OWUOR JJ.A)  
CIVIL APPLICATION NO. NAI. 4 OF 1999  
BETWEEN**

**GHARIB MOHAMED GHARIB.....APPLICANT  
AND  
SULEKHA MOHAMED NAAMAN.....RESPONDENT**

**(An application to file appeal out of time in an intended appeal from a ruling of the High Court of Kenya at Mombasa at (Mr. Justice Waki), dated 23/7/98**

**in  
H.C.C.C. NO. 2 OF 1998)**

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**RULING OF THE COURT**

This is a reference to full court from the decision of Omolo JA sitting as a single judge of this Court by which he rejected the applicant's application for extension of time to file an appeal.

There is no basis upon which we can say that the single judge was wrong in taking the view that by applying for review the applicant had made his election and was bound by it. In the circumstances we find no merit in this reference and it is accordingly dismissed with costs to the respondent.

**Dated and delivered at Mombasa this 27th day of January, 1999.**

**R. O. KWACH  
.....  
JUDGE OF APPEAL**

**A. B. SHAH  
.....  
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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