



IN THE COURT OF APPEAL

AT NAIROBI

CIVIL APPEAL NO. 182 OF 1994

MACHAKOS DISTRICT CO-OPERATIVE UNION LIMITED.....APPELLANT

AND

PHILIP NZUKI KIILU.....RESPONDENT

(Appeal from a judgment of the High Court of Kenya at Machakos (Honourable Mr. Justice J. L.A. Osiemo) dated 20th day of September, 1994

in

H.C.C.C. NO. 5 OF 1994)

RULING OF THE COURT

By a Notice of Motion dated 18th November, 1996 and lodged in this Court on the same day, the respondent sought to have the appellant's appeal struck out as being incompetent for the reason that the record of the said appeal does not contain a certified copy of the decree appealed against as is required by rule 85 (1) (h) of the Rules of this Court. Counsel for the appellant concedes this Motion but leaves the question of costs to the Court. In the result we order that this appeal be and is hereby struck out with costs to the respondent.

Dated and delivered at Nairobi this 9th day of December 1996

J. E. GICHERU

.....

JUDGE OF APPEAL

P. K. TUNOI

.....

JUDGE OF APPEAL

G. S. PALL

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR