



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT EMBU  
Civil Appeal 52 of 2008**

**BEDFORD MURIITHI MUNYITTA.....APPELLANT**

**VERSUS**

**FAITH KAGENDO NJERU.....RESPONDENT**

**Before W. Karanja J**

**Court:**

Directions in this Appeal were taken before the Deputy Registrar 24.11.09 pursuant to O.XLIII Rule 5(1)(a) of the Civil Procedure Rules. Both Counsel opted to proceed by way of filing written submissions which they did. I did not therefore have any chance to go through the record of Appeal. As I settled to prepare the judgment herein, I noticed that the record of Appeal is not properly done. It is not paginated and the only pagination that appears is the one that appears in the typed proceedings.

According to the index, the statement of defence is at page 15. When I turned to page 15 however, the same falls between the evidence of the plaintiff.

Indeed, I am unable to decipher the statement of defence in the record of Appeal. The same is illegible.

I am unable to prepare the judgment with the record as it stands and regret that I have actually wasted time reading the record before I realized the said anomaly.

The record of Appeal is therefore ordered returned to Counsel for the Appellant for him to compile the record properly, paginate the same and even indicate the paragraphs/sentences (i.e. every 10<sup>th</sup> sentence in red ink).

The matter be fixed for mention before the Deputy Registrar once the record is properly done for her to confirm that the same is proper before the file is placed before me for purposes of taking a date for judgment.

**W. KARANJA  
JUDGE  
22/06/2010**

**23/06/2010**

Before W. Karanja J.

Mr. Mogusu present

Mr. Githinji for Wairimu present

**W. KARANJA  
JUDGE**

**Court:**

Ruling delivered in open Court.

**W. KARANJA**  
**JUDGE**  
**23/06/2010**