



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**CIVIL APPEAL NO. 33 OF 2016**

**COSAM OUMA ODONGO.....APPELLANT**

**-VERSUS-**

**SOUTH NYANZA SUGAR CO. LTD.....RESPONDENT**

***(Being an appeal from the judgment and decree by Hon. C. M. Kamau, Resident Magistrate in  
Kehancha Principal Magistrate's Civil Suit No. 78 of 2004 delivered on 11/05/2016)***

**FURTHER DIRECTIONS**

1. When I retired to write the judgment in this appeal, I was confronted by the inadequacy of the record before this Court. According to the order of the trial court made on 05/02/2015, the Respondent's witness statement and a list of documents were adopted as the Respondent's defence without any oral evidence. Parties also filed written submissions and the trial court thereafter rendered its judgment.
2. However, the said Respondent's Witness Statement, List of Documents and its submissions are not part of the Record of Appeal as well as the lower court record. If I must write the judgment, then it will be without the advantage of the completeness of the lower court record upon which the appeal springs from. That will be unfair to the Respondent.
3. Consequently, the following further directions do hereby issue:
  - a) The Appellant shall file a Supplementary Record of Appeal and introduce the said missing documents within 14 days of this order and in default the Respondent shall so file within 14 days of the default;***
  - b) Upon compliance, the appeal shall be fixed for further directions.***

Orders accordingly.

**DELIVERED, DATED and SIGNED at MIGORI this 6<sup>th</sup> day of June 2017.**

**A. C. MRIMA**

**JUDGE**