

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
CORAM: KWACH, OMOLO & TUNOI, J.J.A.
CIVIL APPEAL NO. 261 OF 1998
BETWEEN**

**JOHN GITHINJI WANGONDU
KARIUKI KIBOIAPPELLANTS
AND
OTHAYA FARMERS CO-OPERATIVE SOCIETY LIMITED
THE COMMISSIONER OF CO-OPERATIVE DEVELOPMENTSRESPONDENTS**

(An appeal from a ruling of the High Court of Kenya at Nyeri (Osiero J) dated 17th April, 1997

in

H.C.C.S. NO. 511 OF 1997)

RULING OF THE COURT

This was clearly a dispute under the Co-operative Societies Act. That Act sets out the procedure for settling disputes which may arise under the it. Disputes are to be settled through the Commissioner of Co-operatives, and the decisions of the Commissioner are appealable to the High Court. So the High Court has only appellate powers and there is no provision for instituting suits in the High Court -

under the provisions of Cap 490. There is no further right of appeal from the decision of the High Court to this Court. That is what section 81 (1) and (2) of Cap 490 says. This appeal is accordingly incompetent and we order that it be and is hereby struck out but we make no order as to the costs thereof.

Dated and delivered at Nairobi this 14th day of April, 1999.

R. O. KWACH

JUDGE OF APPEAL

R. S. C. OMOLO

JUDGE OF APPEAL

A. A. LAKHA

JUDGE OF APPEAL

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

DEPUTY REGISTRAR