



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NAIROBI**  
**(CORAM: KWACH, LAKHA & BOSIRE, JJ.A.)**  
**CIVIL APPEAL NO. 152 OF 1999**  
**BETWEEN**

**MALINDI AIR SERVICES ..... 1ST APPELLANT**  
**JOHN M. CLEAVE ..... 2ND APPELLANT**  
**AND**  
**HALIMA ABDINOOR HASSAN ..... RESPONDENT**

**(Appeal from the Ruling of the High Court of Kenya at Nairobi given by (Hon. Justice Mboghli Msagha) on 6th August, 1998**

**in**

**H.C.C.C. NO. 1509 OF 1998)**

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**RULING OF THE COURT**

This is an application under rule 80 of the Rules of this Court to strike out Civil Appeal No. 152 of 1999 on the main ground that the Order included in the record is not the Order of the Court since para (c) of the Ruling is not reflected in the Order included in the record. Accordingly, the Order does not reflect the decision of the Court. The record, is therefore, incurably defective and renders the appeal incompetent. It is, therefore, struck out with costs including the costs of the Notice of Motion.

**Made and delivered at Nairobi this 8th day of December, 1999.**

**R.O. KWACH**

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**JUDGE OF APPEAL**

**A.A. LAKHA**

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**JUDGE OF APPEAL**

**S.E.O. BOSIRE**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**