

**IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: GICHERU, TUNOI & LAKHA, J.J.A)
CIVIL APPEAL NO. 59 OF 1991**

BETWEEN

B.R. AGGARWAL Suing in his capacity as executor of

Late Lekraj Aggarwal.....**APPELLANT**

AND

MUNSHIRAM & COMPANY LIMITED.....RESPONDENT

(Appeal from the Judgment of the High Court of Kenya at
Nairobi (Mr. Justice C.S. Pall) dated 17th October,
1990

in

CIVIL CASE NO.1804 OF 1985)

RULING OF THE COURT

The record of appeal does not include a certified copy of the decree appealed against. This is in breach of the mandatory provision of Rule 85 (i)(h) of the Rules of this Court. It is a fatal omission and renders the record incurably incompetent. Accordingly, the appeal is struck out with costs.

Dated and delivered at Nairobi this 15th day of February, 1996.

J. E. GICHERU

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JUDGE OF APPEAL

P. K. TUNOI

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JUDGE OF APPEAL

A. A. LAKHA

.....

JUDGE OF APPEAL

I certify that this is a

true copy of the original.

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DEPUTY REGISTRAR