



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NYERI**

Civil Appeal 216 of 1995

JULIUS KITHINJI NKANATA.....1ST APPELLANT

GERALD GIKUNDA NKANATA.....2ND APPELLANT

AND

M'NKANATA M'MUTUNGI.....RESPONDENT

**(Appeal from the Order/ Ruling of the High Court of Kenya at Meru (Mr. Justice R. Kuloba) dated
10th November, 1993**

IN

H.C.C.C. NO. 119 OF 1992

JUDGMENT OF THE COURT

The respondent does not seriously oppose the appellant’s appeal. It would appear to us that the superior court did not comply with section 79 B of the Civil Procedure Act relating to summary rejection of appeals to that court and rule 8B (1) of Order XLI of the Civil Procedure Rules. In the result we think that this appeal must be succeeded. We allow the same with costs to the appellant.

Dated and delivered at Nyeri this 16th May, 1996.

J.E. GICHERU

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JUDGE OF APPEAL

R.O. KWACH

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JUDGE OF APPEAL

R.S.C. OMOLO

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR