



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

**CIVIL APPEAL 89 OF 1994**

**OSIENYO ONYIKO.....APPELLANT**

**AND**

**JUSTO OKUKU**

**JOSHUA OKUKU**

**MOHAMED WANGA.....RESPONDENTS**

**(Appeal from the judgement and decree of the High Court of Kenya at Kakamega (Justice J.L.A. Osiemo) dated 24<sup>th</sup> September, 1991**

**IN**

**CIVIL CASE NO. 81 OF 1984)**

**\*\*\*\*\***

**RULING OF THE COURT**

This appeal does not include in its record a certified copy of the Decree against which it is sought to appeal. This contravenes Rule 85 (1) of the Rules and renders the appeal incompetent. Since it is not a document that is expressly empowered to be included in a supplementary record if omitted as specified in Rule 2A of Rule 85, the defect is incurable.

Accordingly, it follows that the appeal must be and is hereby struck out with costs to the Respondents.

**Dated and delivered at Kisumu this 21<sup>st</sup> day of March, 1995.**

**P.K. TUNOI**

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**JUDGE OF APPEAL**

**A.B. SHAH**

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**JUDGE OF APPEAL**

**A.A. LAKHA**

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**JUDGE OF APPEAL**