



IN THE COURT OF APPEAL

AT KISUMU

(CORAM:GICHERU, AKIWUMI & SHAH, JJ.A.)

CIVIL APPEAL NO. 33 OF 1995

BETWEEN

MWITA MERENGO.....APPELLANT

AND

WEREMA MERENGO.....RESPONDENT

(Appeal from the judgment/order of the High Court of Kenya at Kisii (Mabaluto , J.) dated 14th September, 1994

IN

H.C.C. CASE NO. 330 OF 1991)

JUDGMENT OF COURT

The award filed in the superior court on 7th December, 1992 was not signed by all the persons who made it as is required by rule 10 of Order XLV of the Civil Procedure Rules. This was an error of law on the face of the record and amounted to misconduct by the arbitrators. Contrary to the learned judge’s holding that the said award was proper, we think in the circumstances referred to above, this was not so. Accordingly, we allow this appeal, set aside the award and order that the matter be remitted to the superior court for hearing and disposal by that court. The costs of this appeal are awarded to the appellant.

Dated and delivered at Kisumu this 14th day of June, 1995.

J. E. GICHERU

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JUDGE OF APPEAL

A. M. AKIWUMI

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JUDGE OF APPEAL

A.B. SHAH

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR