



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NAIROBI
Civil Appeal 154 of 1995**

JAMES MWASHORI MWAKIO.....APPELLANT

AND

KENYA COMMERCIAL BANK LTD.....RESPONDENT

(Appeal from the Ruling of the High Court of Kenya at Nairobi (Mr. Justice G.S. Pall)

dated 26th July, 1995

IN

H.C.C.C. NO. 2815 OF 1980)

RULING OF THE COURT

The appellant has filed this appeal without leave of the superior court. For us to hear appeal against orders made or referred under order 21 rule 30, 6(1)(2) leave to appeal is require. No such leave to appeal has been obtained. The appellant informs us that the learned judge in the superior court told him he could appeal if he so wished. There is no such fact shown in the record. Leave to appeal has to be on record formally.

For this reason alone the appeal before us is incompetent.

There is yet another problem. Our copies of record of appeal as well that of Mr. Le Pelly and that of the appellant does not contain a certified copy of the order in photostat form even. How the court copy of record of appeal contains a certified copy of order is not clear.

In all circumstances this appeal be and is hereby struck out with no order as to costs.

Dated and delivered at Nairobi this 29th day of November, 1995.

J.E. GICHERU

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JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

A.B. SHAH

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR