

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: WARSAME J.A. IN CHAMBERS)

CIVIL APPLICATION NO. NAI 37 OF 2020

BETWEEN

SURESTEP SYSTEMS AND SOLUTIONS LIMITED.....APPLICANT

AND

ATAKA, KIMORI & OKOTH ADVOCATES.....RESPONDENT

(An application for leave to file a supplementary record of appeal pursuant to Rule 42 & 88 of the Court of Appeal Rules, 2010) **in JR Misc. Application No. 22 of 2018**

RULING OF THE COURT

1. In an application dated 17th December 2020 under **Rule 42** and **88** of the Court of Appeal Rules, the applicant seeks orders for leave to file a Supplementary Record of Appeal out of time and that the annexed Supplementary Record is deemed duly filed and served.
2. It is contended that the applicant recently discovered that certain critical pages of the impugned ruling were inadvertently left out of the record of appeal rendering the same incomplete and that it is in the interest of justice and fairness that the orders sought be allowed. The supplementary record of appeal is therefore intended to correct the said inadvertence.
3. **Rule 88** of the Court's Rules provides that where a document referred to in rule 87(1) and (2) is omitted from the record of appeal the appellant may within fifteen days of lodging the record of appeal, without leave, include the document in a supplementary record of appeal filed under rule 92(3) and thereafter with leave of the deputy registrar on application.
4. In my view the applicant has satisfactorily explained the reasons for seeking to file a supplementary Record of Appeal which is to allow the Court to determine the dispute correctly. Consequently, the application is allowed and a direct that the Supplementary Record of Appeal be filed and served within the next 14 days from the date hereof. No orders as to costs.

Dated and delivered at Nairobi this 19th day of February, 2021

M. WARSAME

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR