

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

CIVIL APPLICATION 32 OF 2005

JUBILEE INSURANCE COMPANY LTD.....APPLICANT

AND

BENSON MARIACHANA.....RESPONDENT

(Application to strike out a Court of Appeal case No. 1 of 2005 from a ruling of the High Court of Kenya at Kisumu (Tanui, J) dated 16th November, 2004

in

H.C.C.C. NO. 38 OF 2003)

RULING OF THE COURT

With respect to *Miss Pandit Nishit*, learned counsel for the applicant, there is no reason for striking out the appeal before us. The order in the record of appeal is, on the face of it certified and there is no allegation that after the appeal was lodged it was withdrawn and refiled with a certified copy of the order. We think the application to strike out the appeal is baseless and we dismiss the motion dated 17th January, 2005. We make no order as to the costs of the dismissed motion.

DATED and DELIVERED at KISUMU this 29th day of March, 2006.

R.S.C. OMOLO

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JUDGE OF APPEAL

P.K. TUNOI

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JUDGE OF APPEAL

S.E.O. BOSIRE

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR