



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

**CIVIL APPLICATION 350 OF 2005**

**AKAMBA PUBLIC ROAD SERVICES LTD.....APPLICANT**

**AND**

**GAUDENCIA ATIENO AMIMO (suing as an administrator and**

**personal representative of FRANCIS A. OKELLO (DECEASED)...1<sup>ST</sup> RESPONDENT**

**SHADRACK KAIGAI.....2<sup>ND</sup> RESPONDENT**

**DANIEL KAIGAI.....3<sup>RD</sup> RESPONDENT**

*(Application for leave to dispense with the service of Notice of Appeal and all documents relating to this Appeal on Daniel Kaigai in the intended appeal from a judgment & decree of the High Court of Kenya at Kisumu (Warsame, J) dated 24<sup>th</sup> November, 2005 in H.C.C.C. NO. 173 OF 2001)\*\*\*\*\**

**R U L I N G**

This is an *ex parte* application brought under *rule 76* of the Court of Appeal Rules in which the applicant seeks orders that leave be granted to dispense with service of the Notice of Appeal and all other documents relating to this appeal upon one *DANIEL KAIGAI*. The application is supported by the affidavit of *Mitchell J.R. Menezes* an Advocate of the High Court. It has been deponed that the said *Daniel Kaigai* never participated in the proceedings in the High Court. This can be seen from the proceedings and judgment of the High Court annexed to *Mr. Menezes* affidavit.

In view of the foregoing leave is hereby granted to dispense with service of the notice of appeal and all other documents relating to this appeal upon *Daniel Kaigai*. Costs of this application shall abide outcome of the appeal.

***MADE at KISUMU this 27<sup>th</sup> day of March, 2006.***

**E.O. O’KUBASU**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**