

**IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: LAKHA, BOSIRE & OWUOR J.J.A)
CIVIL APPEAL NO. 191 OF 2000**

BETWEEN

GODFFREY NGUMO NYAGA IST APPELLANT

UNITED KENYA DISTRIBUTORS LTD 2ND APPELLANT

AND

KENYA COMMERCIAL BANK LTD RESPONDENT

**(Being an appeal from the ruling of the High Court of Kenya (Hon. Mr. Justice P.J.S.
Hewett) dated 14th July, 2000**

in

H.C.C.C. No.4539 of 1992

RULING OF THE COURT

The respondent, Kenya Commercial Bank Limited, has applied that this appeal be struck out on the ground that the record of appeal omits a primary document to wit a certified copy of the order appealed from. Mr. Godfrey Ngumo Nyaga, the first appellant, and a director in the 2nd appellant, concedes that fact. In view of the fact that under rule 85(2A) of the Court of Appeal Rules, the omitted document cannot be brought on record by way of a supplementary record of appeal, it follows that this appeal is incurably incompetent.

In the result it must be and is hereby struck out with costs including the costs of the application to the respondent(Kenya Commercial Bank Ltd).

Dated and delivered this 15th day of March, 2001

A.A. LAKHA

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JUDGE OF APPEAL

S.E.O. BOSIRE

.....
JUDGE OF APPEAL

E. OWUOR

.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR