



Case Number:	civ app 92 of 89
Date Delivered:	05 Oct 1995
Case Class:	Civil
Court:	Court of Appeal at Nairobi
Case Action:	-
Judge:	
Citation:	CORNELIUS K. BIRGEN vs KIPRONO A. MASAI
Advocates:	-
Case Summary:	-
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: GICHERU, AKIWUMI & LAKHA, JJ.A.)

CIVIL APPEAL NO. 92 OF 1989

BETWEEN

CORNELIUS K. BIRGENAPPELLANT

AND

KIPRONO A. MASAIRESPONDENT

(Appeal from a Judgment and Decree of the High Court of

Kenya at Nairobi (Lady Justice Effie Awuor) dated

13th June, 1988

in

H.C.C.C. NO. 402 OF 1985)

RULING OF THE COURT

The judgment appealed against decided that the superior court had no jurisdiction to entertain the appeal filed before it. It did not in any way seek conclusively to determine the rights of the parties and did not give rise to a decree within the meaning of s.2. of the Civil Procedure Act. At the best it gave rise to an order. But no appeal lies under s.75 (2) of the Civil Procedure Act from an order in appeal by the superior court.

Accordingly no appeal lies and this appeal is struck out with costs to the Respondent.

Dated and delivered at Nairobi this 5th day of October, 1995.

J. E. GICHERU

JUDGE OF APPEAL

A. M. AKIWUMI

JUDGE OF APPEAL

A. A. LAKHA

JUDGE OF APPEAL

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