



Case Number:	Civil Appeal (Appli) 26 of 2006
Date Delivered:	23 Jun 2006
Case Class:	Civil
Court:	Court of Appeal at Kisumu
Case Action:	Ruling
Judge:	Philip Kiptoo Tunoi, Emmanuel Okello O'Kubasu, Philip Nyamu Waki
Citation:	Gaudensia Atieno Amimo v Akamba Public Road Services Limited & 2 others [2006] eKLR
Advocates:	Mr. Otieno for the Respondent/Applicant Mr. Menezes for the Appellant/Respondent
Case Summary:	[Ruling] Civil Practice and Procedure – appeal – application to strike out record of appeal – grounds: that the decree contained in the record of appeal was not signed by the Deputy Registrar – whether the record of appeal should be struck out - Court of Appeal Rules rule 80
Court Division:	Civil
History Magistrates:	-
County:	Kisumu
Docket Number:	-
History Docket Number:	H.C.C. NO. 173 OF 2001
Case Outcome:	Dismissed
History County:	Kisumu
Representation By Advocates:	Both Parties Represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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

**CIVIL APPEAL (APPLI) 26 OF 2006**

**GAUDENSIA ATIENO AMIMO.....APPLICANT/1<sup>ST</sup> RESPONDENT**

**AND**

**AKAMBA PUBLIC ROAD SERVICES LIMITED .....1<sup>ST</sup>  
RESPONDENT/APPELLANT**

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

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

***(An application to strike out record of appeal from the judgment of the High Court of Kenya at Kisumu (Mr. Justice Mohammed Warsame) dated 24<sup>th</sup> November, 2005***

**in**

**KISUMU H.C.C. NO. 173 OF 2001)**

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**RULING OF THE COURT**

What is before us is an application made by the 1<sup>st</sup> respondent in the main appeal under **rule 80** of the Rules of this Court for striking out the record of appeal for two reasons: firstly, that the purported decree contained in the record of appeal is not signed by the Deputy Registrar and that it relates to a judgment delivered on 8<sup>th</sup> February, 2005 whilst the judgment the subject matter of the appeal was delivered on 24<sup>th</sup> November, 2005; secondly, that the record of appeal contains various illegible copies of primary documents. We have examined the original record of the superior court and it is conceded by Mr. Menezes for the appellant/respondent, that the original decree is not signed and is in fact blank and unsigned. The Deputy Registrar's Certification of it in that form is therefore of no consequence. On this ground alone, we think Mr. Otieno's submission is valid and we grant the application as sought.

Accordingly, we order that the record of appeal filed in this Court on 8<sup>th</sup> February, 2006 be and is hereby struck out with costs to the first and second respondents in the main appeal.

***Dated and delivered at Kisumu this 23<sup>rd</sup> day of June, 2006.***

**P. K. TUNOI**

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**JUDGE OF APPEAL**

**E. O. O’KUBASU**

.....

**JUDGE OF APPEAL**

**P. N. WAKI**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**



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