

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CIVIL APPEAL NO. E006 OF 2022

CORAM: HON. R.E. ABURILI, J

MICHAEL JURA ODUOR.....APPELLANT

VERSUS

VITALIS OGONGO AGANO.....RESPONDENT

(Appeal from the Judgment and decree of Hon. S.W. Mathenge, Resident Magistrate at Bondo in

Bondo Civil Suit No. E005 of 2021 delivered on 21/02/2022)

RULING

1. I have heard both counsel for the appellants and the respondent. It is conceded that the appellant and the respondents counsel entered into a consent before the lower settling the matter giving rise to this appeal and that this appeal is no longer tenable.
2. The only issue is on costs. I have heard Mr. Kouko and Mr. Oduol Advocates on the issue of costs.
3. Having perused the application on record and especially the undisputed fact that the parties have entered into a consent settling the matter and the financial difficulties that led to the appellant being committed to civil jail, I do not find it appropriate to order for costs in this matter where a consent was recorded before the Respondent filed his replying affidavit.
4. Therefore, in order to bring this very small matter to closure, I order that this appeal is hereby marked as wholly withdrawn with each part to bear their own costs of the appeal and the interlocutory application. The issue of the appeal being filed without leave is overtaken by events of recording of the consent in the lower court between the judgment debtor and the Respondents' counsel. This file is effectively closed.
5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 28TH DAY OF FEBRUARY, 2022

R.E. ABURILI

JUDGE