

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERUGOYA

HIGH COURT CIVIL APPEAL NO. 19 OF 2017

NDEGWA GICHINE.....APPELLANT

VERSUS

SICILY WARWRE NJIRA.....RESPONDENT

RULING

1. This is an appeal arising from the Judgment and decree in Wanguru Principal Magistrate Court Civil Case No.133 of 2013. It is now pending Judgment, however, I find that the Judgment in this matter is premature.
2. This appeal was admitted under Section 79 (b) of the Civil Procedure Act, on 7th of May,2018. On 9th of May, 2018 the Deputy Registrar sent a Notice of Admission of Appeal to the firm of *Wambugu Kariuki Associates Advocates*, informing them that the appeal had been admitted for hearing and directing the advocates to prepare a record of appeal and file the same within 21 days.
3. From the record, there is a letter addressed to the Deputy registrar by the said firm of *Wambugu Kariuki Associates advocates* dated 1st October, 2018, which was received on 19th November, 2018, whose contents are that, he had filed a record of appeal, on 25th of April, 2018 and served the counsel for the respondent on 7th May, 2018.
4. This appeal was admitted on 7th May, 2018, which would mean that he had filed the record of appeal before the appeal was admitted. However, upon perusal of the record, I have not come across any record of appeal. It will therefore, not be able to proceed to write the judgment without the record of appeal.
5. If any record was filed, as stated in the letter by *Wambugu Kariuki advocates* in the letter mentioned above, then it is not in the file. In the circumstances, the matter will be listed for mention for the counsel for the appellant, to confirm whether the record of appeal was indeed filed. Parties to take a mention date by consent.

Dated at Kerugoya this 29th day of May 2020.

L.W. GITARI

JUDGE