

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL APPEAL NO. 100 OF 2016

1. MARK OTENGO

2. SAID AHMED HAMDUN (Suing on his behalf and on behalf of

MAJENGO MAPYA COMMUNITY POLICING UNIT) APPELLANT

VERSUS

MUSTAFA SALIM RESPONDENT

R U L I N G

1. Ever since this Appeal was filed no steps have been taken to move it forward due to unavailability of the trial court file.
2. If that persists it won't be possible to resolve the dispute between the parties yet it is the duty of the court to keep its files for the public to access at all times.
3. To avoid an injustice getting unabated, and while invoking the inherent powers of the court, I now order that the parties do reconstruct the lower court file, with documents they have, and to have the matter heard de novo by a magistrate other than Hon. Nyakweba who has dealt with it in the past.
4. I order that there be no order as to costs.

Dated and delivered at **Mombasa** this **20th** day of **June 2018**.

P.J.O. OTIENO

JUDGE