



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL NO. 551 OF 2012

FRANCIS KAMAU KANGETHE.....APPELLANT
PETER MURIITHI KUNGU.....APPELLANT
SAMUEL KARIUKI MWAURA.....APPELLANT
JOSEPH MUIGAI KAMAU.....APPELLANT
PETER NJUGUNA CHOMBA.....APPELLANT
PATRICK KARIUKI MWANGI.....APPELLANT
NEWTON MUKORA.....APPELLANT
MARY KARUGA T/A NEW.....APPELLANT
MIRO GENERAL STORE.....APPELLANT
BIBIAN NJERI CHEGE.....APPELLANT

VERSUS

MAKENAGIRA FARMERS TRADING COMPANY LIMITED.....RESPONDENT

RULING

This matter (appeal was before me on 7th December 2015 when I directed the Business Premises Rent Tribunal to avail the Tribunal's original records to facilitate the preparation and hearing of this appeal. On 17th December 2015 the Executive Officer of Business premises Rent Tribunal Ms Jane Karoko appeared in court and availed the two original record of the tribunal and the court directed that the appellant's advocate to prepare the record of appeal and serve within 60 days, with leave to photocopy exhibits produced before the tribunal. I can however see a letter of complaint addressed to the Deputy Registrar. It is dated 13th April 2016 and written by Njeri R. Ngari & Company Advocates for the appellants contending that the registry staff have been indifferent and unwilling to avail the file to the advocates to facilitate the photocopying of exhibits to enable them prepare a record of appeal. The record of appeal is thus not yet prepared and filed as directed.

The above notwithstanding, the law as from 15th December 2015 regarding the hearing of appeals from

the Business Premises Rent Tribunal has since changed in that Parliament did enact the Statute Law Miscellaneous Amendment Act, No. 25 of 2015 thereby amending the provisions of Sections 15 and 16(2) of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act Cap 301 Laws of Kenya, by deleting the word "High Court" whenever it appears in the Act and substituting therefor with the words "Environment and Land Court."

What that means is that from 15th December 2015, the High Court's jurisdiction to hear and determine appeals from the Business Premises Rent Tribunal has been divested and vested in the Environment and Land Court.

Although this appeal was filed in the transitional period, the amendments to the Act have the effect of removing this matter from this court, and vesting it in the Environment and Land Court as provided for in Section 13(1) of the Environment and Land Court Act 2011, making it a dispute relating to occupation of land.

Accordingly, without jurisdiction, this court can do no more thing than down its tools and direct that this matter be and is hereby placed before the Environment and Land Court for further directions as to its disposal.

Orders accordingly .

R.E. ABURILI

JUDGE

19.4.2016