

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL CASE NO.69 OF 2012

KINYUA GATHUITA T/A MAKON FREIGHT AGENCIES.....APPELLANT

VERSUS

GICHUGU HOUSING CO-OP SOCIETY LTD.....RESPONDENT

RULING ON DIRECTIONS

This appeal filed in 2012 arises from the decision of the Chairman of Business Rent Tribunal made on 3rd June 2011 in Business Premises Rent Tribunal case No. 885,980 and 977 of 2009 consolidated by D. Mochache (Mrs) Chairperson .

The appeal was admitted to hearing on 15th May 2014 and on 29th September 2014 directions were given as to the hearing of the appeal with the presiding judge directing that the appeal would be heard before a two judge bench.

The party's advocates agreed to file written submissions to dispose of the appeal which submissions were dutifully filed. The matter was pending highlighting of the submissions but the same could not proceed on 24th June 2015 as the two judge bench judges were engaged in other hearings fixed prior. Honourable Mabeya J was then transferred and so far no other judge has been assigned to join me to constitute a two judge bench. The matter was then directed to be placed before me on 30th November 2015 by Honourable Mbogholi J the Presiding Judge but nothing seems to have transpired on that date.

As time went by, several changes in the applicable law have taken place. On 15th December 2015, Parliament enacted the Statute Law Miscellaneous Amendment Act No. 25 of 2015 and by an amendment to Section 15 and 16(2) of the Landlord and Tenants (Shops, Hotels and Catering Establishment Act (Cap 301) of the Laws of Kenya and Sections 4(a) and 8(2) of the Rent Restriction Act Cap 296 of Laws of Kenya, the jurisdiction of the High Court to hear and determine appeals emanating from Business Premises Rent Tribunal was divested and vested/conferred in the court of equal status, the Environment and Land Court. That being the case, this court, with effect from 15th December 2015 is bereft of any jurisdiction to hear and determine this appeal on its merits. And as jurisdiction is everything, without which a court of law acts in vain. Accordingly, I have no option but to down my tools and direct that this file be and is hereby placed before Environment and Land Court for further directions/orders as to its disposal. Mention on 26th April, 2016 before the Environment and Land Court, Nairobi.

Dated, signed and delivered in open court at Nairobi this 14th day of April 2016.

R.E. ABURILI

JUDGE