



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**COMMERCIAL & ADMIRALTY DIVISION**

**HCCC NO. 215 OF 2013**

**PHILIP KIPKEU KISANG.....PLAINTIFF**

**VERSUS**

**ELIZABETH MUTHONI.....1<sup>ST</sup> DEFENDANT**

**NICHOLAS KARANI GICHOH.....2<sup>ND</sup> DEFENDANT**

**CHRISTINE WANJIRU KARANI .....3<sup>RD</sup> DEFENDANT**

**ROBERT NJIRU MBOGO**

**T/A NJIRU MBOGO & CO. ADVOCATES.....4<sup>TH</sup> DEFENDANT**

**RULING**

1. When Counsel addressed me on the Notice of Motion of 11<sup>th</sup> August, 2014, they urged me to study the Court file in Nairobi Milimani Commercial and Admiralty Division **Civil Suit No.436 of 2010 (Elizabeth Muthoni Mbae vs. 1) Nicholas Karani Gichohi (2) Christine Wanjiru Karani (3) Robert Njiru Mbogo t/a Njiru Mbogo & Co. Advocates** (hereafter Civil Suit No. 436 of 2010).

2. I am glad that Counsel made that suggestion because upon perusing the Court file in Civil Suit No. 436 of 2010 it has emerged that the said suit was Dismissed with costs by Court on 18<sup>th</sup> June, 2015 pursuant to the Provisions of Order 17 Rule 2 of the Civil Procedure Rules. In so far as the Motion before Court seeks to have the current suit consolidated with a Dismissed suit for purposes of hearing and determination, it is a non-starter. Counsel for both the Applicant and the Respondent may not have been aware of the said Dismissal Order when they argued the Motion before me on 29<sup>th</sup> July 2016.

3. The Notice of Motion dated 18<sup>th</sup> August 2014 was overtaken by the events of 18<sup>th</sup> June, 2015 in Civil suit No. 436 of 2010 and is hereby struck out with no order to costs.

**Dated, Signed and Delivered in Court at Nairobi this 29<sup>th</sup> day of September ,2016.**

**F. TUIYOTT**

**JUDGE**

**PRESENT;**

Mulele for Plaintiff

N/A for Respondent

Alex - Court Clerk