

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CIVIL SUIT NO. 215 OF 2010

MARTHA KARUU KOBIAPLAINTIFF

VERSUS

CHINA ZHONGXING CONST. CO. LTD1ST DEFENDANT

MBATI JOHN2ND DEFENDANT

COMBO DVD COACH LTD3RD DEFENDANT

RULING OF THE COURT

1. The **Notice of Motion** before the court is dated **26th April, 2016** seeking the following orders:

a. That judgment on liability in this matter be and is hereby adopted in favour of the plaintiff as against **China Zhongxing Construction Co. Ltd** at 80% and against **Combo Bus DVD Coach Ltd** and **Mbati John jointly** 20% as per test suit H.C.A 201 “A” of 2011 – Machakos.

b. That costs be in the cause.

2. The application is premised on the ground that the High Court has determined the apportionment of liability in Machakos H.C.A 201 “A” of 2011, which was a test suit on liability for the subject accident. That the adoption of the judgment in the test suit will pave way for finalization of this suit.

3. The application is not opposed. **Mr. Ogode** who held brief of **M/S Mudaye** on 24th October, 2016 when the application was heard did not object to the grant of the same. Neither is there a response to the application.

4. From the foregoing, this court finds that the application is merited and the same is allowed as prayed.

DATED AND DELIVERED AT MACHAKOS THIS 29TH DAY OF NOVEMBER, 2016.

E. OGOLA

JUDGE

In the presence of:

Mr. Langalanga holding brief for Muinde for applicant

No appearance for respondent

Court Assistant – Mr. Munyao