

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CIVIL APPEAL NO. 11 OF 2013

MOHAMED ADAN 1ST APPELLANT

ABDULLAHI MOHAMED..... 2ND APPELLANT

MOOR ALI OSMAN 3RD APPELLANT

V E R S U S

HUSSEIN MAAKIM ALIO..... RESPONDENT

RULING

This matter was for judgment today. I perused the typed proceedings and made my notes.

However, on perusing the entire file, I noted that there is no record that the appeal was admitted to hearing. More importantly, I did not see the original file of the trial court. There is no record that same was called for by the Deputy Registrar.

Perhaps the confusion arose from the fact that the matter commenced in this court through an application for dismissal of appeal for want of prosecution, and as such the issue of calling for the original trial file was skipped.

Be that as it may, I am not able to deliver judgment in this appeal, until I am availed the original trial file. I thus order as follows:-

1. This court is not able to deliver judgment in this matter in the absence of the original trial court file.
2. The Deputy Registrar will forthwith call for the original trial file in Mwingi to be brought to this court as a matter of urgency.
3. I will hereafter fix a mention date to confirm receipt of the original trial file and to fix a judgment date.

Dated at Garissa this 29th September 2015.

GEORGE DULU

JUDGE