



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL APPEAL NO. 36 OF 2014**

1. SAID FARAH .....1ST APPLICANT
2. SERAI KHALIF ..... 2ND APPLICANT
3. MOULID BOCHA ..... 3RD APPLICANT

VERSUS

REPUBLIC .....RESPONDENT

**RULING**

The amended chamber summons application dated 10th March, 2014 expressed to be brought pursuant to Section 123(3), 126 and 135 of the Criminal Procedure Code and article 49 (1) (h) of the Constitution of Kenya seeks orders for bond pending appeal.

The grounds are that:-

1. **the applicants were charged in Voi Criminal Case No. 72 of 2014 for the offence of entering a National Park contrary to section 102 (1) of the Wildlife Conservation and Management Act 2013 Laws of Kenya.**
2. **Entering into a National park with livestock contrary to section 102 (3) of the Management Act 2013 Laws of Kenya**
3. **Using the Environment and natural resource and wasteful and destructive manner contrary to measures prescribed under Section 140 (2) of the Environment Management and Co-ordination Act.**

It is also contended that the appeal has high chances of success.

That the appeal may take long before it is heard and determined.

I have perused the record of proceedings from the lower court. The appellants had introduced into the Tsavo East National Park some 260 head of cattle when they were arrested by Kenya Wildlife officers and were subsequently charged.

They pleaded guilty to the three Counts facing them and were Convicted.

On the 1st Count each was fined Ksh. 200,000/= in default one year imprisonment.

In respect to the 2nd Count each was fined Ksh. 100,000/= in default one year imprisonment.

In respect of the 3rd Count the Court discharged them for lack of a report from Nema.

It is observed that the Wildlife Management and Conservation Act 2013 has established stiff Sentences for offences related to Wildlife Management and Conservation.

The fines imposed by the learned trial magistrate are the minimum Sentences provided for in the Act.

I am not satisfied that the appeal has overwhelming chances of success or that it is one that presents special circumstances. The Accused persons have the option of paying fine.

I find the application to be without merit and its disallowed.

Ruling delivered dated and signed this **18th** day of **March, 2014**.

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**M. MUYA**

**JUDGE**

**18TH MARCH, 2014**

**In the presence:-**

Learned Counsel for the State Miss Fundi

Learned Counsel for the applicants Mr. Omari

Court clerk Buoro