

REPUBLIC OF KENYA

High Court at Malindi

Civil Appeal 37 of 2011

WALTER ODHIAMBO NYANGORI

WILLY TANUI APPELLANTS

VERSUS

MCDONALD KANDORO KAIRESPONDENT

RULING

1. The respondent's Notice of Motion dated 19th March, 2012 was heard by way of written submissions. I have now looked at the respective affidavits and submissions by the parties in relation thereto.

It is apparent that the appellant has filed two appeals, namely the instant appeal (regarding an order made in the Lower Court) and HCCA No. 3 of 2012 in respect of the judgment in Kilifi SRMCC No.132 of 2010.

2. While these actions only serve to proliferate and delay proceedings, I do not think that the solution lies in “dismissing” the memorandum of appeal herein, as proposed in the Notice of Motion. Now that the proceedings in the Lower Court have been determined in a decision, I direct that the appeal herein be consolidated as a ground to be canvassed in the latest Appeal No. 3 of 2012. These are the orders of the Court.

Costs in the cause.

Delivered and signed at Malindi this **5th December, 2012** in the presence of Mr. Matata holding brief for Mr. Obura for defendants.

Plaintiff absent.

C. W. Meoli

JUDGE