

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL APPEAL NO. 14 OF 1997

GRACE WANJIKU APPELLANT

- VERSUS -

KULSUMBHAI M. HUSEIN & OTHERS RESPONDENTS

RULING

The application by Chamber Summons dated 22nd May, 2000 seeks an order for consolidation of two Appeals, namely Civil Appeal No. 246 of 1995 and Civil Appeal No. 14 of 1998. The reasons advanced were that the parties are the same, issues similar and involves the same premises. But the Respondent's Counsel opposed the said consolidation for reasons that although the parties and premises were the same the issues were different.

In Appeal No. 246 of 1995, the Appellant Grace Wanjiku has filed an appeal against the Tribunal's Judgement dismissing her reference on the ground that the same was filed out of time. The Court therefore never went ahead to look in to the merits of the reference while, in Appeal No. 14/97, the same Appellant has preferred an appeal against the Tribunal's Judgement dated 19.3.97 in which the same Appellant had filed a reference because the landlord had given a notice for increasement of rent. The court then assessed the rent but the Appellant was not satisfied with the end result and hence the appeal.

Clearly in my understanding of the two appeals, the issues for consideration on appeal are totally different. In the circumstances it would not be proper to consolidate the appeals and consequently the application is dismissed with costs.

Dated and Delivered at Mombasa this 4th day of July, 2003.

P.M. TUTUI

COMMISSIONER OF ASSIZE