



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CIVIL APPEAL NO. 23 OF 2017**

**KISIMA FARM LTD.....APPELLANT**

**VERSUS**

**ZACHARY MUNAMU.....RESPONDENT**

**RULING**

On 28.5.2018 Justice Majanja dismissed the appeal herein for reasons appellant had not complied with order of 11<sup>th</sup> May 2018 to file Records of Appeal within 14 days and there was no attendance for the appellant on the material day. The appellants were condemned to pay costs of Kshs 10,000/= to the Respondents. The appellants applied that the appeal be reinstated by an application dated 20<sup>th</sup> June 2018. The application is opposed by the Respondents.

However in consideration that decretal sums was deposited and in consideration that when the appeal was dismissed the appellants filed application for reinstatement without delay and in consideration the records of appeal have been filed it is the opinion of this court that appellant should be given a chance to argue the appeal by way of written submissions. The application is allowed but the costs earlier on ordered of Kshs 10,000/= should still be paid to the Respondent as condition precedent to allowing reinstatement. Appellants have 7 days to file and serve the written submissions as well as records of appeal and also pay costs of Kshs. 10,000/=.

Upon service of the Records of appeal and written submissions the Respondents will also have 7 days to file and serve their written submissions judgement in this appeal will be rendered 29.11.2018. In default of any of the condition above the appeal shall stand dismissed without recourse to the court. Orders accordingly.

**HON. A.ONG'INJO**

**JUDGE**

**RULING DELIVERED, SIGNED AND DATED THIS 18<sup>TH</sup> DAY OF OCTOBER 2018**

**HON. A.MABEYA**

**JUDGE**