

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 66 OF 2015

RICHARD ONCHAGA MOSES.....APPELLANT

VERSUS

RISPER OERI.....RESPONDENT

(An appeal arising from the decision to issue warrants of arrest and committal to civil jail by the Children's Court at Nairobi before the Honourable A. Nyoike (Senior Resident Magistrate) on 9th July 2015 in Children's Case No. 537 of 2013)

RULING

1. The instant matter was filed herein on 10th July 2015; vide a memorandum of appeal dated 10th July 2015. The appellant filed the memorandum of appeal simultaneously with a Motion of even date seeking interlocutory orders.
2. The appellant had been committed to civil jail by the lower court, and orders were made on 15th July 2015 for his release conditionally. The application was to thereafter be heard on a date to be given at the registry. The said application is yet to be heard, despite several court appearances.
3. It emerged at the appearance on 10th March 2016, that there was a parallel appeal cause, being HCCA No. 57 of 2014. I made an order then directing that the two files be put together. That has been done hence this ruling on the direction that the matters ought to take.
4. According to the court file in HCCA No. 57 of 2014, the matter commenced by way of a memorandum of appeal dated 22nd July 2014 and filed therein on 27th July 2014 by the appellant in HCCA No. 66 of 2015 against the respondent in the said cause. The said appeal challenged orders that had been made in Nairobi Children's Court Case Number 537 of 2013 on diverse dates in 2014 by A. W. Nyoike, Ag. SRM.
5. There was an interlocutory application dated 9th December 2014. The same was resolved by a consent recorded on 25th July 2014 to the effect that the appellant would be released from civil jail on certain conditions.
6. The two appeals arise from decisions made by the lower court in a suit between the two parties. The orders were made in different dates. The appeals are therefore challenging different orders but made in the same cause by the same magistrate. I do not think it can be, in the circumstances, said that there is abuse of process.
7. The two appeals can very well proceed separately, but to enable prudent expenditure of judicial time, I shall direct that the appeals be consolidated and disposed of simultaneously. The parties are now at liberty to fix the pending applications for hearing. Dates to be obtained at the registry on priority. Matter to be handled by any Judge in the Family Division.

DATED, SIGNED and DELIVERED at NAIROBI this 3RD DAY OF FEBRUARY, 2017 .

W. MUSYOKA

JUDGE