



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT NAIROBI**

**MILIMANI LAW COURTS**

Civil Case 313 of 2010 & 256 OF 2009

**SYLVETER HASUSA MAKOKHA..... PLAINTIFF**

**VERSUS**

**1.**  
**JAMES OKAO (T/A OKAO &  
COMPANY ADVOCATES)**

**2.**  
**NJOROGE WACHIRA (T/A/  
NJOROGE**

**WACHIRA & COMPANY, ADVOCATES).....DEFENDANTS**

**AND**

**CIVIL SUIT NUMBER 256 OF 2009**

**FATUMA AMIN ABDULLAHI .....PLAINTIFF**

**VERSUS**

**SYLVESTER HASUSA MAKOHA & 4 OTHERS .....DEFENDANTS**

**DIRECTIONS**

**1.** On 16<sup>th</sup> May 2011 the court was informed that these two suits are related in that the claim in **HCCC 313 of 2010** is based on the other suit, **HCCC 256 of 2009**.

2. Mr. Enonda, learned counsel for the Plaintiff in 313 of 2010, was of the view that the two suits ought to be consolidated. Mr. Kabaka, learned counsel for the 1<sup>st</sup> Defendant in HCCC 313 of 2010, agreed.

3. Mr. Wachira, learned counsel for the 2<sup>nd</sup> Defendant in HCCC 313 of 2010, however, pointed out that HCCC 256 of 2009 was concluded by consent and that it is no longer pending. He stated further that an application there to set aside the consent that disposed of the suit was subsequently withdrawn. He was of the view that consolidation would thus not make any sense. Mr. Enonda pointed out that subsequently another application to set aside the consent in HCCC 256 of 2009 was filed and that the same was pending.

4. I have perused HCCC 256 of 2009. By an order entered on 18<sup>th</sup> May 2010 (Rawal, J) the written consent order of the same date duly signed by the Plaintiff's advocates as well as the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants' advocates was made an order of the court. The consent included an order withdrawing the suit as against the 4<sup>th</sup> and 5<sup>th</sup> Defendants. The consent appears to have settled the suit as between the Plaintiff and the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

5. The consent and order of 18<sup>th</sup> May 2010 remain in place and have not been set aside. HCCC 256 of 2009 is therefor no longer pending and has been disposed of, notwithstanding that there may be an application to set aside the aforesaid consent and order.

6. That being the case, it would not serve any purpose to consolidate these suits as one of the suits is no longer pending and has been disposed off. Consolidation can only confuse the issues in the pending suit.

7. I therefore decline at this stage to consolidate the suits. It is so ordered.

**DATED AT NAIROBI THIS 6<sup>TH</sup> DAY OF JULY, 2012**

**H.P.G. WAWERU**

**JUDGE**

**SIGNED AND DELIVERED THIS 6<sup>TH</sup> DAY OF JULY, 2012**