



REPUBLIC OF KENYA

High Court at Malindi

Civil Case 15 of 2011

FERRUZ OMAR MAGHRAM

MALKIA OMAR MAHENDAN

FARIDA OMAR MAHENDAN

ANZUN OMAR MAHENDAN

NURU OMAR MAHENDANAPPELLANTS

VERSUS

AHMED MOHAMED HONEYRESPONDENT

R U L I N G

1. Regarding the question that has arisen as to whether the third appellant Farida Omar Mahendan is a party in this appeal and whether it constitutes a conflict of interest for Mr. Mazrui to act for her as well as the respondent, I have perused the record in light of the submissions made.

2. On 19th July, 2011 before Omondi J. the said 3rd Appellant stated: "I am not interested in the appeal."

This sentiment has been recorded severally during these proceedings. As such it is irregular for her to purport to continue to participate in the proceedings. The question that needs to be answered clearly is this: Has the 3rd appellant withdrawn her appeal? Technically, she has not. And so I place a choice before her to categorically state before this court that she has withdrawn the appeal. Hence the question of her representation will be resolved.

If the 3rd appellant elects to proceed with the appeal, it will behove her to engage the services of a different counsel from Mr. Mazrui to obviate the possibility of conflict of interest on the party of Mr. Mazrui.

Ruling delivered and signed this 1st day of November, 2012 in the presence of Mr. Otara for the Appellants, Mr. Mazrui for the Respondent.

C. W. Meoli

JUDGE

3RD APPELLANT

I had agreed with kadhi's decision and I have no interest in the appeal.

C. W. Meoli

JUDGE

COURT – Appeal by 3rd appellant now withdrawn.

C. W. Meoli

JUDGE

FURTHER ORDER

Let the application filed on 28th June, 2012 be heard by written submissions as agreed by Counsel starting with applicant's submissions in ten days and respondent after ten (10) days of service. Mention on 3rd December, 2012 to take ruling date.

C. W. Meoli

JUDGE