



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO. 09 OF 2019

EDWARD NGARI MUSA.....APPLICANT/APPELLANT

VERSUS

SHADRACK NYAGA NJERU.....RESPONDENT

RULING

1. This application states it has been brought to court under Section 3A of the Civil Procedure Act and other enabling provisions of the law. It seeks the following orders:

1. That pending the hearing and determination of the appeal suit herein the honourable court be pleased to consolidate E.L.C. Appeal No. 9 of 2019 together with E.L.C. Appeal No. 8 of 2019.

2. That costs be in the cause.

2. The application is supported by the affidavit of Edward Ngari Musa, the applicant, filed on **7th November, 2019** and has the following grounds:-

a) That the applicant being dissatisfied with the judgment delivered on 24th June, 2019 by Hon. J. M. Njoroge, Chief Magistrate Chuka, in Civil Case no. 127 of 2014 in which he was one of the defendants he opted to appeal through a different advocate from the one he had in the lower court matter.

b) That the applicant consequently realized that the other defendants in CMCC 127 of 2014 had also opted to appeal through their previous advocate.

c) That the appellants in ELC Appeal No. 8 of 2019 and the appellant in ELC Appeal No. 9 were all defendants in Civil Case No. 127 of 2014.

d) That the subject matter in ELC Appeal No. 8 of 2019 and the one in ELC Appeal No. 9 are one and the same.

e) That it is clear from the Memorandum of Appeal all appellants were dissatisfied with the decision of the lower court in Civil Case NO. 127 of 2014.

f) That none of the parties will suffer prejudice if the appeals herein are consolidated.

g) That it is in the interest of justice and to facilitate expeditious determination of the suits herein that the application for consolidation is herein made.

3. When the application came up for directions on **10th September, 2019**, the applicant had not filed written submissions. For this reason, the respondent could not have filed his written submissions. I am also of the view that consolidation of this appeal with ELC Appeal No. 9 of 2019 will not in any meaningful way expedite the court process apposite to the two appeals.

4. In the circumstances, this application is dismissed.

5. I issue no order as to costs.

6. Orders accordingly.

Delivered in open Court at Chukat his **11th day of December, 2019** in the presence of:

CA: Ndegwa

Miss Bore present for the Appellant/Applicant

Shadrack Nyaga Njeru Respondent

P. M. NJOROGE,

JUDGE.