



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT OF KENYA

AT MILIMANI

ELC CASE NO. 457 OF 2006

SHADRACK OLTETIA OLE TOME.....PLAINTIFF

TABITHA MATEYIAN TOME.....PLAINTIFF

= VS =

THE HONOURABLE ATTORNEY GENERAL.....1ST DEFENDANT

FREDRICK OLONANA TOME.....2ND DEFENDANT

MRS GERISHOM OLE TOME.....3RD DEFENDANT

RULING

1. This is a Ruling in respect of a Notice of Motion dated 15th June 2016. The application is expressed to be brought under Rule 84 and 85 of the Court of Appeal Rules. The application seeks to strike out a Notice of Appeal dated 12th June 2015, and filed in Court on 16th June 2015.

2. Rule 84 of the Court of Appeal Rules provides as follows:-

“ A person affected by an appeal may at any time either before or after the institution of the appeal ,apply to the court to strike out the notice or the appeal as the case may be, on the ground that no appeal lies or that some essential step in the proceedings has not been taken or has not been taken within the prescribed time”.

3. Under the Court of Appeal Rules 2010, “**Court**” means the Court of Appeal and includes a division thereof and a single Judge exercising any power vested in him sitting alone. It is therefore clear that this Court does not have jurisdiction to entertain an application for striking out a notice of appeal on any grounds stipulated under the rules of that court. The applicant should accordingly file the application in the proper court.

It is so ordered.

Dated, Signed and delivered at **Nairobi** on this **21st** day of **September, 2017**.

E. O. OBAGA

JUDGE

In the presence of :

Shadrack Ole Tome, the first Plaintiff

Court Assistant: Hilda

E. O. OBAGA

JUDGE