



IN THE COURT OF APPEAL

AT KISUMU

(CORAM: E. M. GITHINJI, HANNAH OKWENGU &

J. MOHAMMED, JJ.A.)

(CRIMINAL APPEAL NO. 37 OF 2014

BETWEEN

PETER MAINA JOHN *ALIAS* HUSSEIN ALI.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from the judgment of the High Court of Kenya at Kakamega (Chitembwe & Dulu, JJ.) dated 17th July, 2014

in

HCCRA NO. 309 OF 2012)

JUDGMENT OF THE COURT

It is common ground that the appellant’s appeal in the High Court that is subject of this second appeal before us, was heard by a Bench that included Wasilwa J, a judge in the Employment and Labour Relations Court. In accordance with the decision in Supreme Court Petition No. 5 of 2015 **Republic vs Karisa Chengo and others**, the proceedings in the High Court were a nullity.

Accordingly, we allow this appeal, set aside the judgment and proceedings of the High Court, and direct that the 1st appeal be re-heard by a High Court Bench properly constituted by judges of the High Court.

DATED at Kisumu this 28th January, 2019.

E. M. GITHINJI

.....

JUDGE OF APPEAL

HANNAH OKWENGU

.....

JUDGE OF APPEAL

J. MOHAMMED

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR.