



IN THE COURT OF APPEAL

AT ELDORET

(CORAM: E. M. GITHINJI, HANNAH OKWENGU & J. MOHAMMED, J.J.A.)

CRIMINAL APPEAL NO. 83 OF 2015 (R)

BETWEEN

JOHN AKOTOROT LOKITAANG ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

*(Appeal from the judgment and decree of the High Court of Kenya at Kitale (Karanja & Obaga, JJ.) dated 5<sup>th</sup> November, 2013*

in

HCCRA NO. 130 OF 2010)

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JUDGMENT OF THE COURT

[1] This is a second appeal by **John Akotorot Lokitaang** who was tried and convicted by a Senior Resident Magistrate in the Magistrate’s Court at Lodwar.

[2] It is not disputed that his first appeal in the High Court was heard by a Bench of two judges that included E. Obaga J, a judge in the Environment and Land Court.

[3] In accordance with the Supreme Court decision in **Republic vs Karisa Chengo**, the proceedings in the High Court were a nullity as Obaga J was not competent to hear the appeal.

[4] Accordingly, we allow this appeal to the extent of setting aside the judgment of the High Court and remitting the matter back to the High Court for re-hearing of the first appeal by a Bench of the High Court made up of competent judges. The hearing of the appeal in the High Court shall be given priority, given the circumstances of this matter.

**DATED and delivered at Eldoret this 16<sup>th</sup> day of 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.**