



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: KARANJA, GATEMBU & SICHALE, JJ.A)

CIVIL APPEAL NO. 6 OF 2018

BETWEEN

PHOENIX OF E.A. ASSURANCE

COMPANY LIMITED.....APPELLANT

AND

SIMEON MURUCHI THIGA

T/A NEWSPAPER SERVICE.....RESPONDENT

(An Appeal from the Judgment and Decree of the High Court of Kenya at Nairobi (Olga Sewe, J.) dated 2nd September, 2016

in

HCCC NO. 248 OF 1997)

JUDGMENT OF THE COURT

This appeal arises from the decision of the High Court (Olga Sewe, J.) dated 2nd September, 2016 in High Court **Civil Case No. 248 of 1997**. This Court has in its judgment in **Civil Appeal No. 244 of 2010** determined that High Court Civil Suit No. 248 of 1997 was a nullity *ab initio* as the original suit being PMCC **No. 918 of 1991** was null and void *ab initio*, it having been filed in a court without jurisdiction. This appeal cannot therefore lie as the same also amounts to a nullity.

For reasons given in our Judgment in Civil Appeal No. 244 of 2010, a copy of which is also filed in this record, we dismiss this appeal but with no order as to costs having awarded costs in Civil Suit No. 244 of 2010.

Dated and delivered at Nairobi this 10th day of May, 2019.

W. KARANJA

.....

JUDGE OF APPEAL

S. GATEMBU KAIRU, FCIArb

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JUDGE OF APPEAL

F. SICHALE

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR