

REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA

AT MOMBASA

Civil Appeal (Appli) 100 of 2007

FESTUS OGADAAPPLICANT/APPELLANT

VERSUS

HANS MOLLINRESPONDENT

(An application for extension of time to enjoin and serve the record of appeal upon Joyce Odongo Ambundo also known as Joyce Ambundo-Muck as a third party in the proceedings in an appeal from the judgment and decree of the High Court of Kenya at Mombasa (Mr. Justice J. K. Sergon dated 20th April, 2007)

in

H.C.C.C. NO. 284 OF 2000)

RULING

The application by way of a notice of motion dated 16th December, 2008 and lodged in this Court on 17th December, 2008 is under *rule 4* of the Court's Rules and seeks orders that one *Joyce Odongo Ambundo* also known as *Joyce Ambundo-Muck*, be joined as a third party, that the record of appeal already filed be served upon one Joyce as a third party and so on. There is really no provision in the Court's Rules for such orders or third parties. But I understand the appellant/applicant to be seeking leave to serve Joyce with a notice of appeal and the record of appeal out of time. Joyce will thus become the second respondent, not a third party. Mr. Ouma is not opposed to the application. I accordingly allow the motion and order that the applicant/appellant shall serve Joyce Odongo Ambundo, also known as Joyce Ambundo-Muck with the notice of appeal within twenty-one (21) days of the date hereof and then serve her with the record of appeal within a further thirty (30) days from the date hereof. The costs of the motion shall be in the appeal.

Dated and delivered at Mombasa this 20th day of January, 2009.

R. S. C. OMOLO

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR