

**IN THE HIGH COURT OF THE UNITED REPUBLIC TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

CIVIL APPEAL NO. 265 OF 2018

PHILIPS DISTRIBUTORS LTD.....APPLICANT

VERSUS

ABEID BWAGI & 4 OTHERS.....RESPONDENT

RULING

Date of Ruling 03/10/2019

NGWALA, J.

The learned counsel for the appellant Mr. Eliamin Ephraim has prayed for an order to withdraw this Appeal without costs because the appeal has been overtaken by events.

The 5th respondent, who appeared in court unrepresented, conceded to the prayer, with reservation to the request to withdraw the appeal without costs. The main grounds being that they have incurred costs to attend this appeal that was instituted without valid reasons.

In reply the counsel for the appellants reiterated his submission in chief by insisting that the costs be waived because the respondents did not contest the appeal, whence it was fair and

just for each party to bear its costs because both parties have incurred costs.

On that contested issue of costs, I am inclined to agree with the 5th Respondent that the Appellants who have withdrawn this appeal should bear the costs as they caused the respondents to enter appearance in court.

Accordingly this Appeal is withdrawn with costs. That is the respondent are entitled to costs.



A. F. Ngwala

JUDGE

03/10/2019