

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

SONGEA DISTRICT REGISTRY

AT SONGEA

(DC) CIVIL APPEAL NO. 03 OF 2022

(Originating from Civil Case No. 01 of 2018 of Tunduru District Court at Tunduru)

ERICK KAMNDE1ST APPELLANT

ALLY SALUMU.....2ND APPELLANT

VERSUS

KOROSHO AFRICA LIMITED.....1ST RESPONDENT

MESHACK KIFANTA KYANDO..... 2ND RESPONDENT

RULING

Date of last order: 21/04/2022

Date of Ruling: 21/04/2022

MLYAMBINA, J.

When the appeal came for hearing on 21st April, 2022, learned Counsel Kaizilege Prosper prayed to withdraw the appeal.

As intimated by learned counsel Kaizilege Prosper for the Appellant, the grounds of appeal levelled against the Respondents in this *District court Appeal No. 3 of 2022* have the same bearing with the grounds of appeal in *District court Appeal No. 2 of 2022*. As such, this appeal do not qualify to be a cross appeal envisaged under *Order XXXIX Rule 22(1) of the Civil Procedure Code, Cap 33 (R.E. 2019)*.

Technically, this *District court Appeal No. 3 of 2022* is *Res subjudice* with *District court Appeal No. 2 of 2022* in terms of *Order IX of the Civil Procedure Code (supra)*.

Since the Appellants' Counsel prayer to withdraw this appeal, has not been objected by Counsel Stephen Lekey for the 1st Respondent and Eliseus Ndunguru for the 2nd Respondent, the Court doeth hereby mark this appeal withdrawn with no costs in terms of *Order XXIII Rule 1 of Civil Procedure Code (supra)* . It is so ordered.



Y.J MLYAMBINA

JUDGE

21/04/2022

This ruling delivered and dated 21st day of April, 2022 in the presence of learned Counsel Mr. Kaizilege Prosper for the Appellants and learned Counsel Mr. Stephen for the 1st Respondent and Eliseus Ndunguru for the 2nd Respondent.



Y.J MLYAMBINA

JUDGE

21/04/2022