



**Kingsbench Limited v Wambugu (Civil Case 201 of 2015)  
[2023] KEHC 1254 (KLR) (Civ) (24 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 1254 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL  
CIVIL CASE 201 OF 2015**

**JK SERGON, J**

**FEBRUARY 24, 2023**

**BETWEEN**

**KINGSBENCH LIMITED ..... PLAINTIFF**

**AND**

**SARAH NYAWIRA WAMBUGU ..... DEFENDANT**

**RULING**

1. The defendant/applicant in the present instance brought the notice of motion dated September 15, 2022 supported by the grounds presented on its face and the facts stated in the affidavit of the applicant. Here, the applicant sought for a stay of all proceedings in the present suit pending the hearing and determination of a complaint lodged by the applicant and against Mr Kanyi Gachoka (advocate) before the Advocates Disciplinary Tribunal (“the tribunal”).
2. To oppose the motion, the plaintiff/respondent put in a replying affidavit sworn by advocate Kanyi Gachoka on October 13, 2022.
3. The motion was canvassed through brief oral arguments echoing the averments made in the respective affidavits.
4. I have considered the grounds featuring on the face of the motion; the facts deponed in the affidavits supporting and opposing the motion respectively; and the brief oral arguments.
5. It is clear from the instant motion that the sole issue arising for determination is whether or not to grant a stay of proceedings in the suit, pending the complaint before the tribunal.
6. However, before I consider the merits thereof, I note that advocate Kanyi Gachoka by way of his replying affidavit to the Motion states inter alia, that he has never been served with a complaint or notified of the existence of any complaint made against him in respect to the present matter.



7. The advocate further states that the purported complaint referenced by the applicant has not been lodged before the tribunal or the Advocates Complaints Commission and is therefore of the view that the order sought cannot be granted on the basis of a non-existent complaint.
8. On her part, the applicant states in her affidavit supporting the Motion that she lodged a complaint against the advocate, with the Law Society of Kenya (LSK) and that the complaint was copied to the Tribunal, the latter of which is yet to hear the said complaint.
9. Upon my perusal of the record, I observed that the applicant has annexed copies of the correspondences dated May 23, 2022 and September 19, 2022 respectively, both addressed to LSK and titled as complaints against the abovementioned advocate.
10. Be that as it may, the applicant did not tender any credible evidence to indicate that she has filed a formal complaint with the Tribunal in order to constitute a basis for the order sought in the instant Motion.
11. In view of the foregoing circumstances, I am unable to consider the merits of the application at this stage.
12. Consequently, the notice of motion dated September 15, 2022 is hereby ordered struck out with no order on costs.

**DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 24<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**J. K. SERGON**

**JUDGE**

In the presence of:

..... for the Plaintiff/Respondent

..... for the Defendant/Applicant

