

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CIVIL APPEAL NO.102 OF 2019

KARISA NZAI MUNYIKA.....APPELLANT/RESPONDENT

VERSUS

ANNE WANJIKU RUGIRI.....RESPONDENT/APPLICANT

RULING

1. The matter has come up for interparties hearing of an application notice dated **10th March, 2021** in which the Applicant is seeking for orders that:-

a) Leave be granted to the Firm of J. O. Magolo & Company Advocates to come on record for the Respondent in place of the Firm of Mogaka, Omwenga & Mabeya, Advocates.

b) This Appeal be dismissed for want of prosecution.

c) Costs of the application be provided for.

2. The application is premised on the grounds on the face of it and **Supporting Affidavit** of **ANNE WANJIKU RUGIRI**, the Applicant/Respondent sworn on **10th March, 2021**. The gist of it being that since filing the Appeal herein on **28th May 2019**, the Appellant has made no steps to ensure that the Appeal is heard and determined, a clear indication that he is no longer interested in pursuing the same.

3. According to the Applicant's Counsel, the application, order and hearing notice were served upon the **Firm of M/S Okanga & Co. Advocates** and **M/S Mogaka Omwenga & Mabeya & Co. Advocates** on **29th March, 2021**.

4. Today, only **Mr. Omwenga** of **M/S Mogaka, Omwenga & Mabeya Advocates** has attended court and indicated that despite not having been served with a consent by the **Firm of M/S Magolo & Co. Advocates**, who are taking over the matter, they were not opposed to the application and urged that the same be allowed as presented with no orders as to costs.

5. On the other hand, there was no appearance by the **Firm of M/S Ikanga & Co. Advocates** for the Appellant/Respondent dispute a confirmation from the **Affidavit of Service** and annexure attached thereto of service.

6. There is then no response that has been filed to the application. I thus find the application notice dated **10th March, 2021** unopposed and allow the same in the terms presented as follows:-

a) The firm of J. O Magolo & Company Advocates be and are hereby granted leave to come on record for the Respondent in the place of the Firm of Mogaka, Omwenga & Mabeya Advocates.

b) The Appeal filed herein is hereby dismissed for want of prosecution with costs to the Applicant/Respondent.

It is hereby so ordered.

DELIVERED, DATED and SIGNED VIRTUALLY at MOMBASA this 20th day of APRIL, 2021.

D. O. CHEPKWONY

JUDGE

20/4/2021