



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**MISCELLANEOUS CIVIL CASE NO. E017 OF 2021**

**ROZAN ACHIENG OULA.....APPLICANT**

**VERSUS**

**GEORGE ONYANGO OCHOLA.....RESPONDENT**

**RULING**

1. On 28/7/2021 when this matter came up for directions as it had been filed under Certificate of Urgency, Ms. Oyoko counsel for the applicant appeared virtually and informed the court that she had been contacted by Ms. Aoko advocate for the Respondent the previous day saying that the latter was unable to attend the virtual court as they had travelled to Kisii to attend to other matters and prayed for another hearing date. She was directed to serve the Respondent as there was no evidence of service, for an oral hearing today.
2. Today, Ms. Oketch has appeared holding brief for Ms. Oyoko and claims that Ms. Oyoko is indisposed and was unable to trace the Respondent and that the Respondents' advocates closed offices in Nairobi and cannot be traced.
3. This application was filed on 17/6/2021 under Certificate of urgency when this court was on leave. The applicants' counsel is obviously lying to this court when she says on 28/7/2021 that she had been in touch with the Respondents counsel but today, the Respondent and his counsel have not been traced because there is nothing on oath to support that assertion.
4. The Applicant in my view is not interested in the disposal of this application and wants to use the court for his own purposes other than to achieve justice, for, justice shall be administered without delay.
5. For failure to prosecute the application dated 25/5/2021 under Certificate of urgency, the same is hereby dismissed for want of prosecution with no orders as to costs.
6. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 28TH DAY OF SEPTEMBER 2021**

**R.E. ABURILI**

**JUDGE**