



**Odiwuor v Ochieng (Environment and Land Case E010 of 2022)
[2025] KEELC 5284 (KLR) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 5284 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENT AND LAND CASE E010 OF 2022
MN KULLOW, J
MARCH 17, 2025**

BETWEEN

KENNEDY ODIWUOR PLAINTIFF

AND

DORCAS ANYANGO OCHIENG DEFENDANT

RULING

1. The defendant/respondent had by a Notice of Preliminary Objection dated 23/2/2022 raised a preliminary objection on appoint of law objecting to the filing of the substantive suit herein on ground that the suit was filed by a person not qualified to practice as an advocate. Pursuant to section 9, 21, 31, 33, and 34 of the Advocates' Act.
2. The defendant/respondent further contends that the application dated 18/1/2023 was also filed by a person not qualified as an advocate pursuant to the provision of the Advocates' Act as herein above stated.
3. The Plaintiff in response to the said Preliminary Objection filed a replying affidavit in which he aversed that the person who filed the suit and the application is one Cleophas Oragi who was admitted as an advocate on 5/8/2022 and he annexed a certificate of good standing from the Law Society of Kenya.
4. The Plaintiff further contends that the suit contrary to the assertions the Defendants application was filed on 28/10/2022 and not 3/11/2021 as claimed by the Plaintiff.
5. He further stated that at the time the Preliminary Objection was filed, Mr. Cleophas Oragi had already made payment for his practising certificate to the Law Society of Kenya and he annexed to the Affidavit his practising certificate for the year 2023.
6. I have considered the Notice of Preliminary Objection, the Replying Affidavit in opposition thereto and the submission filed by the parties and the duly singular issue for determination before me is



whether Mr. Cleophas Oragi Advocate was a person qualified as an advocate at the time the suit was filed.

7. For a person to qualify as an advocate and practice as such in the Republic of Kenya, he should be a person duly qualified within the meaning of Section 9 of the Advocates' Act which provides as follows:

“Subject to this Act no person shall be qualified to act as an advocate unless;-

- a. He has been admitted as an advocate
- b. His name is for the time being on the Roll and,
- c. He has a practicing certificate in force.”

8. For the purpose of this Act, a Practicing Certificate shall be deemed not to be in force while he is suspended by virtue of Section 27 of the Act.

9. From the Respondents Replying Affidavit he has annexed to the Replying Affidavit, a Certificate of Good Standing from the Law Society of Kenya, and proof of payment for his practicing certificate and as such I find that Mr. Cleophas Oragi was duly qualified to act as an advocate at the time the suit was served by him on 3/11/2022.

10. And consequently, I find that the Notice of Preliminary Objection dated 23/2/2023 is not merited and the same is hereby dismissed.

Cost of the same should be in cause.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17TH DAY OF MARCH, 2025

MOHAMMED N. KULLOW

JUDGE

In the presence of:

Vincent Court Assistant

No appearance For the Plaintiff

No appearance for the Defendant

