



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISC. CIVIL APPLICATION NO. 2 OF 2017

MATTERS ARISING FROM NAKURU SUCCESSION CAUSE NO. 96 OF 2000

IN THE MATTER OF THE ESTATE OF THE LATE RAHAB WANJIRU EVANS – DECEASED

PERPETUAL WANGECHI WAITERE

KAREN HETA KANGETHE

T/A KANGETHE, WAITERE & CO. ADVOCATES.....APPLICANT

VERSUS

AGNES WAITWIKA ZAMBETAKIS.....RESPONDENT

RULING

1. On 03/04/2019, I gave a ruling giving certain orders against the Applicant/Advocate in this matter. The Applicant was aggrieved by the ruling. The Applicant was also persuaded that I am biased and that I have exhibited open bias against her in the matter. Consequently, when the Applicant filed an application for stay of execution of the orders emanating from the ruling of 03/04/2019, she filed a concomitant Application praying that I recuse myself from the matter. The Application for recusal is dated 20/05/2019.

2. The Application for recusal was orally argued before me on 12/06/2019. I reserved a ruling for 31/07/2019. As fate would have it, as I was considering the Application, the Judicial Services Commission (JSC) recommended my name to the President for appointment as a Judge of Appeal. In the circumstances, I came to the conclusion that it would serve no useful purpose to give a considered ruling on the motion for recusal. The new developments have rendered the question moot.

3. I will therefore direct that the Applicant’s motion dated 09/04/2019 (for stay of execution) be listed for hearing before any of the High Court judges in Nakuru High Court Station.

4. There will be no order of costs.

Dated at Nakuru this 30th day of July, 2019

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JOEL NGUGI

JUDGE

Signed and Delivered this 31st day of July, 2019

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J. N. MULWA

JUDGE