



REPUBLIC OF KENYA



KENYA LAW
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**Kiplagat v Chepkonga (Environment and Land Appeal 05 of 2023)
[2023] KEELC 21272 (KLR) (24 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 21272 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KABARNET
ENVIRONMENT AND LAND APPEAL 05 OF 2023**

L WAITHAKA, J

OCTOBER 24, 2023

BETWEEN

DAVID KOMEN KIPLAGAT APPELLANT

AND

JOSHUA KIPKOECH CHEPKONGA RESPONDENT

RULING

1. The application dated 8th August 2023 is brought under Article 159(d) of the [Constitution of Kenya](#), Section 1, 1A and 3A of the [Civil Procedure Act](#) and Order 51 of the [Civil Procedure Rules](#), seeking the following orders:
 1. The Honourable Court be pleased to grant leave to the firm of Kigen Ngetich & Co. Advocates to come on record after judgment for the respondent herein
 2. Costs be provided for.
2. The application is premised on the grounds on its face and is supported by the affidavit of Wilson Kigen, sworn on 8th August, 2023. He deposes that prior to the judgment being delivered on 24th January 2023 in favour of the respondent herein, the firm of Mwaita and Company Advocates were acting for the respondent in the matter. After the appeal was filed, the respondent appointed the firm of Kigen Ngetich & Company Advocates to act for him in place of Mwaita and Company Advocates. He avers that the appellant will not be prejudiced if the application is allowed.
3. The application is not opposed.



4. Order 9 Rule 9 of the *Civil Procedure Rules* provides;

“When there is a change of advocate, or when a party decides to act in person having previously engaged an advocate, after judgment has been passed, such change or intention to act in person shall not be effected by order of the court—

- (a) upon an application with notice to all the parties; or
- (b) upon a consent filed between the outgoing advocate and the proposed incoming advocate or party intending to act in person as the case may be.”

5. The firm of Kigen Ngetich and Company Advocates filed the instant application on 8th August 2023 and served it upon the firm of Mwaita & Company Advocates on the same date at 2.10pm. The application was received with the remarks

“we have no objection on one condition. Advise him to”

6. I have read and considered the affidavit and I am satisfied that notice was given to the outgoing advocate for the respondent in compliance with Order 9 Rule 9(a) of the *Civil Procedure Rules*. Consequently, I allow prayer (i) in the application dated 8th August 2023 with no orders as to costs as the application was not opposed.

7. Orders accordingly.

DATED, SIGNED AND DELIVERED, AT KABARNET THIS 24TH DAY OF OCTOBER, 2023.

L. N. WAITHAKA

JUDGE

Ruling delivered virtually in the presence of:-

Mr Kigen for the applicant

Mr Kiptoo for the respondent

Court Assistant – Daisy

