

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 3619 OF 1983

GITHARA CHUCHU & 473 OTHERS.....PLAINTIFFS/ APPLICANTS

- V E R S U S -

GITITU COFFEE GROWERS CO-OP SOCIETY LTD.....1ST DEFENDANT/RESPONDENT

KENYA PLANTERS CO-OP UNION2ND DEFENDANT/RESPONDENT

RULING

1. The plaintiffs/applicants herein took out the motion dated 15.11.2017 in which they sought for *inter alia*, the consent order dated 28.7.2008 to be amended by removing the name of M/S Chege Wainaina & Co. Advocates from the joint account in which ksh.5,000,000/= was deposited and to substitute the same with the name of M/s Nabutete & Co. Advocates so that the said account is under the new names of M/S H.H.& M advocates and M/S Nabutete & Co. Advocates from the date of amendment. When the motion came up for interpartes hearing, Mr. Ochieng learned advocate for the 2nd defendant/respondent appeared and informed this court that he had no objection to the motion. There is no evidence to show that the firm of M/s Chege Wainaina & Co. Advocates was served and that may be the reason why that firm was not represented in court.

2. There is no dispute that the main prayer being sought is for the firm of M/s Nabutete & Co. Advocates to replace the firm of Chege Wainaina & Co. Advocates to be a party and signatory in a bank account at Commercial Bank of Africa. In view of the fact that there is no evidence of service upon the firm of M/s Chege Wainaina & Co. Advocate, it will be unfair to proceed with the motion without the participation of the aforesaid firm of advocates.

3. It is apparent from the averments of the applicants that the firm of Chege Wainaina & Co. Advocates is opposed to the motion. Consequently, I decline to determine the motion and direct the applicants to have the same served upon the firm of Chege Wainaina & Co. Advocates. The motion to be fixed for interpartes hearing by the registry.

Dated, Signed and Delivered in open court this 21st day of December, 2017.

J. K. SERGON

JUDGE

In the presence of:

.....for the Plaintiff

..... for the Defendant