



**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 2777 OF 2008**

**IN THE MATTER OF THE ESTATE OF LABAN NJENGA MUNDIA (DECEASED)**

**ALVIN KAMANDE NJENGA.....APPLICANT**

**VERSUS**

**ESTHER NJERI NJENGA.....PETITIONER/RESPONDENT**

**RULING**

1. The complaint by the applicant Alvin Kamande Njenga is that, without his consent and authority, the firm of Okemwa & Co. Advocates filed a notice of appointment purporting that he had instructed it to act for him in this matter. The notice of appointment was filed on 25<sup>th</sup> July 2016. He filed this application to challenge that notice and the subsequent consent filed on the same date by Gatheru Gathemia & Co. Advocates that sought to compromise this family dispute. The firm acts for the petitioner Esther Njeri Njenga who is the mother of the applicant. The consent was signed by the firm and also by Okemwa & Co. Advocates purportedly for the applicant and Macharia, Burugu Co. Advocates for interested parties. The applicant states that he suspects that it was the petitioner's advocates who fraudulently got the notice of appointment filed without his instructions, and got the consent filed to defraud him of the estate of the deceased.

2. The two law firms did not respond to the application.

3. Quite fortunately, a replying affidavit was filed on 17<sup>th</sup> October 2016 by Sophie Kabura Njenga (she is the daughter of the petitioner and the sister of the applicant) to denounce the purported consent. She swore that Gatheru Gathemia & Co. Advocates had denied filing the consent, saying that it was a forgery. The firm has since been replaced by James T. Makori & Co. Advocates who filed a notice of change on 13<sup>th</sup> October 2016.

4. I will expunge from the record the notice of appointment filed by Okemwa & Co. Advocates on 25<sup>th</sup> July 2016 and the certificate of urgency dated and filed on 25<sup>th</sup> July 2016 and which contained the consent. For clarity, the consent is also expunged.

5. The applicant is at liberty to report the two law firms to the Law Society of Kenya and/or to the police for investigations and further action.

6. To that extent, the applicant's application dated 21<sup>st</sup> September 2016 is allowed. Costs shall be borne by the petitioner.

**DATED and DELIVERED at NAIROBI this 13<sup>TH</sup> DECEMBER, 2016.**

**A.O. MUCHELULE**

**JUDGE**