



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Miscellaneous Application 3 of 2012

IN THE MATTER OF THE ESTATE OF STEPHEN KARIUKI NDUNGU

IN THE MATTER OF THE TRUSTEE ACT (CAP 167)

IN THE MATTER OF L.R. 2259/246 [ORIG NO.2259/78/10]

MARY MUGURE.....1<sup>ST</sup> APPLICANT

HANNAH MUTHONI KARIUKI.....2<sup>ND</sup> APPLICANT

EUNICE WAMBUI KARIUKI.....3<sup>RD</sup> APPLICANT

DANIEL WANGURU KARIUKI.....4<sup>TH</sup> APPLICANT

RULING

The Originating Summons dated 7.5.2012 which purported to originate the suit herein was filed by a firm styled **AZANIA LEGAL CONSULTANTS** which has described itself as “advocates for the applicant. “AZANIA LEGAL CONSULTANTS” is not a name of an Advocate. It is a trade name. **Rule 12 of the Advocates (Practice) Rules** requires advocates who have practicing certificates to practice under their own names or names of past or present members of their firms. The Rule states:

*“no advocate shall practice under any name other than his own name or other name of a past or present member or members of the firm.”*

**Ms Sharon Mwakugu, advocate**, appeared before me on 17.5.2012 and again on 29.5.2012 when I gave her opportunity to show whether the Originating Summons in this case had been filed in compliance with the provisions of the Advocates Practice Rules. She caused the Law Society of Kenya to write to the Deputy Registrar of the Family Division on 7.6.2012. The Law Society of Kenya Secretary, Mr. Apollo Mboya wrote thus:

*The Law Society of Kenya has not authorized advocates to practice law under trade names that do not depict the identity of who they are. Azania is the name of the partners, see copy of Deed Poll!*

The Deed Poll in the Kenya Gazette of December 2010 stated:

*Timothy Isaac Azania Bryant, formerly known as Timothy Isaac Bryant, formally and absolutely renounced and abandoned the use of his former name Timothy Isaac Bryant and in lieu thereof assumed and adopted the name Timothy Isaac Azania Bryant for all purposes and authorizes all persons at all*

*times to designate, describe and address him by his name Timothy Isaac Azania Bryant only.”*

No where does the name “Azania Legal Consultants” appear in the deed poll! The statement that “Azania” is the name of a partner or the partners is misplaced.

The original of the LSK letter dated 3.2.2011 to Timothy I. A. Bryant was not produced to the court. At any rate, the copy produced merely noted that the advocate had assumed the new name Timothy Isaac Azania Bryant and the Law Society confirmed that it had entered the change in its database. The heading of the letter “Waiver of Rule 12 of the Advocates (Practice) Rules was flippant and mischievous not least because it was not borne out by either the contents or the subsequent letter by the LSK dated 7.6.2012.

The philosophy behind the requirement contained in Rule 12 of the Advocates Practice Rules is not difficult to appreciate.

In the present case, the suit is filed in breach of Rule 12 of the Advocates Practice Rules. For that reason, I hereby strike it out. It is so ordered.

**Dated at Milimani Law Courts, Nairobi, and this 28<sup>th</sup> day of June 2012.**

**G.B.M. KARIUKI, SC**

**JUDGE**

**COUNSEL APPEARING**

***Ms Sharon Mwakugu, Advocate***

***Mr. Kugwa – Court Clerk***