

REPUBLIC OF KENYA
HIGH COURT AT EMBU

Civil Appeal 47 of 2011

JEREMIAH KARANI.....APPELLANT/APPLICANT

VERSUS

SABASTIAN NDARANGA JAMES.....RESPONDENT

R U L I N G

This is the Notice of Motion dated 16/9/2011 filed under Section 3A of the Civil Procedure Rules, Section 9 and 24 of the Advocates' Act and Order 2 Rule 15 of the Civil Procedure Rules for order that the Memorandum of Appeal dated 15/4/2011 be struck out with costs.

The main ground being that the Appeal was filed by a person who was unqualified to practice law during the year 2011 practice year. It is supported by the affidavit of Perterson Kinyua Kiama an advocate of the High Court of Kenya and sworn on 16th September 2011.

Annexure PKKIII from the Law Society of Kenya confirms that Mr. Peter Wambugu Kariuki the sole advocate in the firm of M/s Wambugu Kariuki & Co. Advocates had not taken out a practicing certificate for the year 2011.

The fact of being unlicensed is not disputed. The effect of such pleadings which have been filed by an unlicensed advocate is that they are incompetent. I refer *National Bank of Kenya Ltd Vs. Wilson Ndolo Ayah Civil Appeal No.119 of 2002 Nairobi*. Mr. Mahugu who is on record now for the Appellant conceded to the Application. There was really nothing to contest in this kind of situation.

I allow the application and strike out the Memorandum of Appeal with costs to the Respondent.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT EMBU THIS 19TH DAY OF OCTOBER 2011.

H. I. ONG'UDI
JUDGE