



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 352 of 2007**

**1. BLASIO ONDIEK**  
**2. CHARLES NDOLA**  
**3. SYLVESTER OWOUR**  
**(Suing on their own behalf and on behalf of the**  
**5,700 pensioners of the defunct**  
***Kenya Posts & Telecommunications***  
***Corporation*) .....PLAINTIFFS**

**V E R S U S**

**1. COMMUNICATIONS COMMISSION OF KENYA**  
**2. TELKOM KENYA LIMITED**  
**3. POSTAL CORPORATION OF KENYA**  
**4. MINISTER FOR INFORMATION AND**  
**COMMUNICATIONS .....DEFENDANTS**

**R U L I N G**

The three Plaintiffs herein filed suit on their own behalf and on behalf of 5,700 “**pensioners of the defunct Kenya Posts and Telecommunications Corporation**”. This is therefore a representative suit.

**Order 1, rule 8** of the **Civil Procedure Rules** (the **Rules**) provides as follows:-

- “8. (1) Where there are numerous persons having the same interest in one suit, one or more of such persons may sue or be sued, or may be authorized by the court to defend in such suit, on behalf of or for the benefit of all persons so interested.**
- (2) The court shall in such case direct the plaintiffs to give notice of the institution of the suit to all such persons either by personal service or, where from the number of persons or any other cause such service is not reasonably practicable, by public advertisement, as the court in each case may direct.**
- (3) Any person on whose behalf or for whose benefit a suit is instituted or defended under subrule (1) may apply to the court to be made a party to such suit.”**

It is common ground here that no directions by the court as to the giving of notice of the institution of this suit to the 5,700 persons on whose behalf the suit was brought have been sought or given. Those persons have a right to know that a suit has been filed on their behalf. Secondly, they ought to know what is being urged on their behalf and against them in the suit.

A preliminary objection to the suit upon various points of law was taken and argued. I do not think that it would be just or proper to render a decision upon that preliminary objection before the 5,700 persons on whose behalf the suit has been brought have been notified of the institution of the suit and thereby accorded an opportunity to make such representation to court as they may want to.

In the circumstances, I hereby direct under Order 1, rule 8 (2) of the Rules that notice of institution

of this suit be given by advertisement in one issue each of the following newspapers:-

1. *Daily Nation*
2. *The Standard*
3. *Taifa Leo*

After such advertisement the preliminary objection by notice dated 4<sup>th</sup> May, 2007 can be argued afresh, or parties take such other steps as they may deem fit. Costs of the proceedings so far shall be in the cause. Those will be the orders of the court.

**DATED AT NAIROBI THIS 4<sup>TH</sup> DAY OF FEBRUARY, 2010**

**H. P. G. WAWERU**  
**J U D G E**

**DELIVERED THIS 5<sup>TH</sup> DAY OF FEBRUARY, 2010**