

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

Misc. Appli. 709 of 2006

CHARLES JOSPHAT AKWONI.....APPLICANT

VERSUS

THE SOLICITOR GENERAL.....RESPONDENT

R U L I N G

When this matter came up before me on 15/2/2008, Mr. Njogu for the respondent asked that matter should not proceed. His contention was that the Solicitor-general (Mr. Muchemi) was not served in person. On the other hand, Mr. Ombete for the applicant submitted that Mr. Muchemi, the Solicitor-General was served and he directed that service be effected on a State Counsel. That service was done on the State Counsel who accepted service. Therefore, in Mr. Ombete's view, the service was proper, as there was no requirement for personal service.

I have considered the issues raised in the verbal objection by the State Counsel, Mr. Njogu. I find no merits in them. He has not referred me to any legal authority that service on the Solicitor General had to be personal. Secondly, even if the said service was to be personal, the fact that the Solicitor-General directed that the service be effected on the State Counsel, and the State Counsel accepted such service, was adequate to prove that service was actually effected.

In addition, on 19/7/2007, Mr. Amollo for respondent had asked that the court mentions the matter on 27/9/2007 with a view to recording a settlement. In my view, that request meant that the Solicitor-General, who is an officer in the same office with the State Counsel, must have been aware of the matters herein, therefore service was done.

Consequently, I dismiss the objection of Mr. Njogu and order that the matter do proceed further in accordance with the law, as the Solicitor-General Mr. Muchemi has been properly served. The objection is overruled, and the matter may be fixed for hearing costs in the cause.

Dated and delivered at Nairobi this 15th April 2008.

George Dulu

Judge

In the presence of ?

Mr. Ombete for applicant

Mr. Njogu for respondent

Mr. Mwangi – court clerk