



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Misc. Civ. Appli 1332 of 2004
GATHERU GATHEMIA..... PLAINTIFFS
VERSUS
THE DISCIPLINARY COMMITTEE OF
THE LAW SOCIETY OF KENYA..... DEFENDANT

R U L I N G

This is a Notice of Motion dated 20th December, 2007 M/s JOHN MBURU & Company advocates for the applicant GATHERU GATHEMIA. It was brought under Order 53, Rule 4(2) of the Civil Procedure Rules. It seeks for the following orders-

1. *THAT the applicant be granted leave of this Honourable Court to amend the Statutory Statement of facts and the amended Statutory Statement appended hereto be deemed as properly filed and served.*
2. *THAT the Applicant be granted leave of this Honourable Court to file a further/supplementary affidavit and the supplementary affidavit appended hereto be deemed as properly filed and served.*
3. *THAT the costs of this Application be costs in the cause.*

The application was filed with a supporting affidavit sworn by the applicant on 10th December, 2007.

The application was not opposed, in the sense that nothing was filed in response to the application. However, Mr. Sagana who appeared at the hearing of the application for the respondent submitted that, in his view, the proposed amendments were not necessary. He did not give any reasons to back his position.

These proceedings were brought by the applicant. The applicant has now made the present application, because he want to use some certain information, which was not contained in the documents already filed. In accordance with the provisions of Order 53 rule 4 (2) of the Civil procedure Act, I find no reason why I should not grant the prayers sought. In my view, allowing the application will be in the best interests of justice.

Consequently, I allow the application and grant the orders sought.

I order that costs will follow the decision in the main motion.

Dated and delivered at Nairobi this 23rd day of September, 2008

GEORGE DULU

JUDGE.

In the presence of-

No appearance for applicant

Mr. Mungai holding brief for Mr. Sagana for respondent