

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Appeal 434 of 1998

KANTAFU COMPANY LIMITED APPELLANT

VERSUS

JULIETA WANJIKU MUIRURI RESPONDENT

RULING

In this application dated 28th September, 2006, and filed under a Certificate of Urgency, the Applicant (Respondent in the Appeal) seeks various orders of substitution, injunction, and extension of time. The application is filed by the Applicant's new Advocate, Okungu & Company, who have not come on record properly.

Mr. Kingara, Counsel for the Respondent, has submitted that this application is incompetently before the Court, and should be struck out. I agree with that submission.

Order 3 R. 9A of the Civil Procedure Rules provide as follows:

“9A. When there is a change of advocate, or when a party decides to act in person having previously engaged an advocate, after judgment has been passed, such change or intention to act in person shall not be effected without an order of the court upon an application with notice to the advocate on record.”

The provisions of that Rule are clear, and intended to protect Advocates, especially those whose services have been terminated after Judgment, without payment of fees.

According to records, the Applicant has not filed any application, nor obtained Orders of the Court, to effect the change in Advocate, after Judgment was passed in the Lower Court.

Accordingly, and for that reason alone, this application is incompetently before this Court, and is struck out with costs to the Respondent.

Dated and delivered at Nairobi this 28th day of February, 2007.

ALNASHIR VISRAM

JUDGE