



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

Civil Case 1731 of 2001

1. Land & Environment Law Division
2. Subject – Representation
3. Civil Practice and Procedure
4. Law firm : i) Sole Practitioner

Appointed judge of High Court of Kenya

ii) Lawyers in the firm

iii) Continue with the practice

5. Held

Once a sole practitioner / partner in the law firm is appointed a judge, the said law firm must wound up and dissolve.

6. Case Law

a) Rebecca Wanjiku Mburu v Jogoo Kimakia Bus Service

HCC.4998/89, unreported, Ang'awa, J.

b) David Ekule v Daniel Muteti & Another

Hccc 47/01, unreported, Ang'awa J.

7. Advocate

Wambugu Kariuki & Co. Advocates for the plaintiff - absent

H.P.G. Waweru & Co. Advocates for the defendant - absent

LOISE NJAMBI NJERI & THREE OTHERSPLAINTIFFS

VERSUS

SAMUEL MUIRO MAGUDEFENDANT

RULING

I: Representation

1. In this High Court suit concerning land, the plaintiffs were represented by M/s Wambugu Kariuki & Associate whilst the defendants were represented by H. P. G. Waweru company advocates.
2. It is well known that M/s H.P.G. Waweru & Company Advocates was a sole law practitioner, who was subsequently appointed a judge of the High Court of Kenya.
3. The said practice is situated in Nyeri within the Central Province.
4. One J. Mukuha appeared before this court claiming to be practicing in the said firm. I did give her the opportunity to submit to this court whether the firm of H.P.G Waweru and company advocate should dissolve or wind up on the sole practitioner being appointed a judge. The advocate failed to return to court. I recognize that she did ask one C. Wamae to hold her brief but had nothing useful to inform this court.

II Findings

5. In this ruling the issue is whether a firm of a sole practitioner can exist after the said advocate has been appointed to the high court bench?
6. In the case law of **Rebecca Wanjiku Mburu v Jogoo Kimakia Bus Service** HCCC.4998/89 Ang'awa J 30 March 04. I did rule that the firm of a sole practitioner must wind up when the sole practitioner advocate is appointed to the bench.
7. Under rule 12 of the Advocates Act Cap16 that read:-

“no advocate shall practice under any name or the name of a first past or present member or members of a firm”

An advocates firm I stated was a partnership as described under the Partnership Act Cap 29
- “ persons must enter into partnership with one another are for the purpose of this act called collectively a firm and the name under which their business is carried on is called the firms name”.
9. I noted in that ruling that a partnership dissolves on death, or bankruptcy of any of the partner. Where the practice is of a sole proprietor that said sole proprietor registers another firm under the registration of business name act Cap 499.
- “a firm is defined to mean an unincorporated body of two or more individuals or of one or more individuals and one or more corporations or two or more corporation who or which have entered into partnership with one another with a view of carry on business for profit”.
10. Once a sole partner dies or, as in this case, becomes a judge the firm must dissolve.
11. “A member” described under rule 12 includes and means a partnership or the actual person who owns the business and who would be personally liable to the firm.
12. An employee / a director in the firm are in effect not responsible or liable to the firm. This applies to

advocates referred to as associates. They are employees and not partners.

13. In this case I rule that the firm of H.P.G Waweru & Co. advocates must dissolve. It should not exist on the sole practitioner becoming a judge of the high court of Kenya (and or a magistrate in other cases).

DATED THIS 19TH DAY OF JUNE 2007 AT NAIROBI

M. A. ANG'AWA

J U D G E

Wambugu & Kariuki & Co. Advocates for the plaintiff- absent

H.P.G. Waweru & Co. Advocates for the defendant - absent