



REPUBLIC OF KENYA

HIGH COURT AT NYERI

MISC CIVIL APPLI 328 OF 1995

NJENGA LIVINGSTONE.....APPLICANT

Versus

JOYCE WANJIKU.....1ST RESPONDENT

PAULINE WANGUI.....2ND RESPONDENT

RULING

NJENGA LIVINGSTONE, by a Chamber Summons dated 28th July 2004 sought that **MR. CYRUS NYAGA KABUTE** would represent him in this action. He had given Cyrus Nyaga Kabute a Power of Attorney. By its ruling of 24th November 2004 this court dismissed that Chamber Summons and stated as follows:

“In any case it would appear that the Applicant Njenga Livingstone instead of instructing a properly qualified Advocate of the High Court of Kenya

present him in these proceedings is using some illegal method purporting to give a power of attorney to a non advocate to represent him in these proceedings doing the work of an advocate. The court cannot accept that to happen and this application dated 28th July 2004 is not only incompetent but is also an abuse of the process of this court and the said Njenga Livingstone is hereby strongly warned against any more of such kind of application in these proceedings.”

Despite that finding the Applicant has again filed another Chamber Summons dated 5th June 2007. That application is the subject of this ruling. By that application the Applicant seeks the following prayer:

“That this honourable court may be pleased to allow the Applicant to appoint his son Julius Kaira Njenga to represent him in this application for revocation of a grant and all other cases in other courts.”

By his supporting affidavit the Applicant deponed that he is 72 years old. That he has been conducting his own cases at Kerugoya court amongst others. That he has been having eye problem since his childhood. That as a consequence he does not see properly. That he has relied on his son Julius Kaira Njenga to take him around as he attended the various cases. He therefore prays that his son would represent him in these actions.

By the Applicant’s application it does seem that he is seeking to be represented by his son in this action. Such an action would go against the provisions of Section 9 of the Advocates Act. That section

provides as follows:

“Subject to this Act, no person shall be qualified to act as an advocate unless:-

- (a) he has been admitted as an advocate; and***
- (b) his name is for the time being on the Roll; and***
- (c) he has in force a practicing certificate***

And for the purpose of this Act a practicing certificate shall be deemed not to be in force at any time while he is suspended by virtue of section 27 or by an order under section 60 (4).”

The Applicant does not seem to have heeded the warning given to him by the court by its ruling of 24th November 2004. In totality I find that the Applicant’s application is incompetent and the same is hereby rejected and is dismissed with costs to the Respondent.

MARY KASANGO

JUDGE

Dated and delivered at Nyeri this 13th day of November 2007.

By: M. S. A. MAKHANDIA

JUDGE