

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

Misc Appli 40 of 2006

MBUGUA & MBUGUA, ADVOCATES APPLICANT

VERSUS

KENINDIA ASSURANCE COMPANY LIMITED..... RESPONDENT

R U L I N G

The Applicant, which is a firm of advocates, applied by notice of motion dated 12th April 2006 under Section 51 (2) of the Advocates Act, Cap. 16 for judgement for its advocate/client taxed costs. In response to the application the Respondent/Client filed a notice of preliminary objection dated 7th June 2006. That preliminary objection was argued on 8th June 2006. The point taken is that the application is filed and signed by unqualified advocates as ANN MUTHONI MBUGUA and NJOROGE MBUGUA (t/a MBUGUA & MBUGUA, ADVOCATES) do not hold practicing certificates for the year 2006. The evidence tendered for this allegation are unauthenticated copies of letters dated 6th June 2006 addressed to one JACKSON OMWENGA, Advocate by the Registrar of the High Court confirming that ANN MUTHONI MBUGUA and NJOROGE MBUGUA do not hold current practicing certificates.

The preliminary objection is opposed upon two main grounds. These are, one, that there is no proper evidence before the court that the two advocates do not hold current practicing certificates, and two, that in any event, the two are representing themselves and not representing a client and are therefore entitled to come to court on their own behalf and to prosecute the application.

I have considered the submissions of the learned counsels. The two letters are photocopies attached to the notice of preliminary objection. They have not been properly produced before court as duly commissioned annexures to an affidavit. They are not proper evidence placed before the court, and I must therefore disregard them. In any event, the applicant firm is representing itself. Any person, even an advocate, is entitled to come to court for and on behalf of himself/herself. He/she cannot be barred from coming to court in his/her own cause merely because he/she does not hold a current practicing certificate, if he/she is representing himself/herself and not representing any other person.

I consider that the preliminary objection is not well taken and has no merit. It is hereby overruled with costs. Order accordingly.

DATED AND SIGNED AT NAIROBI THIS 22ND DAY OF JUNE, 2006

H.P.G. WAWERU

JUDGE

DELIVERED THIS 23RD DAY OF JUNE, 2006.