



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**HIGH COURT MISC. CIVIL APPLICATION NO. 1065 OF 2000**

**KIHARA WAITHAKA.....1ST APPLICANT**

**FREDDIE KISANG CHESEREK.....2ND APPLICANT**

**V E R S U S**

**CENTRAL BANK OF KENYA.....RESPONDENT**

**R U L I N G**

The Applicants filed this application for Judicial Review with the usual statutory statement (of facts) which was signed by the Applicants' Advocates. Mr. Ougo for the Respondent raised a preliminary objection to the application on the ground that the statement ought to have been signed by the Applicants and not their Advocate. In his view, every document must be signed by the person claiming it as his own except where the law allows otherwise. He gave an example of Order VI Rule 14 of the Civil Procedure Rules as allowing Advocates or agents to sign pleadings on behalf of the parties. He argued that a statement of fact (which accompanies an application for judicial review) is not a pleading. On this ground, he sought to strike out the whole application.

The question raised by Mr. Ougo's objection is whether an application for judicial review will be rendered fatal if the statement of facts accompanying it is not signed by the Applicant personally.

Although Mr. Ougo raised this question, he conceded that he had no authority on the point. I for my part agree with Mr. M'noti for the Applicants that the objection has no basis. There is no requirement under Order LIII of the Civil Procedure Rules that a statement must be signed by the Applicant himself. The statement is nothing more than a description of the parties, a statement of the relief sought and the grounds on which it is based. There is nothing in the statement which would impose a special rule requiring that it must be signed exclusively by the Applicant himself. If that were so, what would be the need of the Verifying Affidavit meant to accompany the application? In my view, the position is that an Advocate may sign any court documents in a suit for filing unless there is a specific provision that the same ought to be signed by the party himself. That aside, I do not see what possible prejudice the respondent has, or could have suffered because of this, nor can I see how the respondent is likely not to get a fair hearing on merit by reason only of the fact that the statement of facts has been signed by the Applicant's advocates instead of the Applicant himself.

Accordingly, I dismiss Mr. Ougo's preliminary objection with costs payable to the Applicant in any event.

DATED and DELIVERED at NAIROBI this 31st day of May, 2001.

**ALNASHIR VISRAM**

**JUDGE.**