



**Nyabero v Land Registrar Nyamira County & another; Mikae (Interested Party) (Miscellaneous Civil Application E004 of 2023) [2023] KEELC 18678 (KLR) (12 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18678 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA  
MISCELLANEOUS CIVIL APPLICATION E004 OF 2023**

**JM KAMAU, J**

**JULY 12, 2023**

**BETWEEN**

**MATOKE NYABERO ..... PLAINTIFF**

**AND**

**THE LAND REGISTRAR NYAMIRA COUNTY ..... 1<sup>ST</sup> RESPONDENT**

**THE CHIEF LAND REGISTRAR ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**PATROBA ONSERIO MIKAE ..... INTERESTED PARTY**

**RULING**

1. The interested party herein has vide Notice of Motion dated 21/3/2023 urged the court to bar Ms. Winnie Adhiambo Ochwal, Advocate from acting for the applicant herein Matoke Nyabero on the ground that he had instructed the said Advocate to represent him in presenting, drafting pleading “in this case which was the same subject matter and same parties”. He prays that “the said firm of Advocate for the applicant should be disqualified”. The Application is supported by the Interested party’s Supporting Affidavit sworn on 21/3/2023 and filed in court on 22/2/2023.
2. In the said Affidavit, the Interested Party depones that the firm of Oguttu – Mboya & co. Advocates where Ms. Ochwal is a partner “where once my Advocate who were representing in this case over same subject matter”. He says he is surprised that the firm he had engaged in land parcel No. North Mugirango/Boisanga 1/934 is representing the adverse party and prays that this court strikes out all the pleadings drafted in this case by the firm of Oguttu-Mboya & Co. Advocates. The Interested Party has attached a copy of letter dated 6/2/2003 referring to the said parcel of land North Mugirango/ Boisanga 1/934 with Patroba Onerio Mikayi as the client. Ms. Winnie Adhiambo Ochwal Advocate responded vide a Replying Affidavit sworn on 23/3/2023 and filed in court on 24/3/2023 by deponing that the firm of Oguttu Mboya & Co. Advocates was until the year 2017 a sole proprietorship owned



and managed by one Mr. Joseph Mboya Oguttu who is now a Judge of the Environment and Land court. It was then dissolved and a new partnership was formed in the year 2019 operating in the name and style of M/s. Oguttu, Ochwangi, Ochwal & co. Advocates until December 2020 and is now Ms. Oguttu, Mboya, Ochwal & Partners Advocates.

3. The Advocate said that she never interacted with the Interested Party in 2003 when she was not even in the said firm of M/s. Oguttu Mboya & co. Advocates. The letter dated 6/2/2003 from the above firm which the Interested Party relies upon has the letterhead showing J. Oguttu Mboya LLB(Hon) Nbi. Dip KSL and Justus W.O. Otiso Llb (Hons) LLM(Notts) Dip. (KSL) as the only Advocates in the firm and Ms. Ochwal is not one of them.
4. The interested party does not even show in his papers that the matter ever went to court and if so when and where or what was the case number. Ms. Ochwal says that she resigned from the State Law Office at Kisii in 2017 and could not have interacted with the Interested party.
5. I therefore find that there is no conflict in Ms Ochwal representing the ex parte applicant against the interested party in this case and therefore dismiss the Application dated 21/3/2023 with costs.

**RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 12<sup>TH</sup> DAY OF JULY 2023.**

**MUGO KAMAU**

**JUDGE**

**In the Presence of: -**

The Interested Party

Ms. Ocwal for the Ex-parte Applicant

C/A – Kennedy

