



**Onyango, Jonyo & Co Advocates v Omondi & another (Miscellaneous Civil Application E231 of 2024) [2025] KEHC 10943 (KLR) (24 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10943 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CIVIL APPLICATION E231 OF 2024**

**JM OMIDO, J**

**JULY 24, 2025**

**BETWEEN**

**ONYANGO, JONYO & CO ADVOCATES ..... APPLICANT**

**AND**

**EMMEY ATIENO OMONDI ..... 1<sup>ST</sup> RESPONDENT**

**JACK DAVID ODHIAMBO ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. When this matter came up before me on 30<sup>th</sup> April, 2025, the 2<sup>nd</sup> Respondent herein, Jack David Odhiambo rose and introduced himself as such and further stated that he was acting in person and also acting for the 1<sup>st</sup> Respondent Emmey Atieno Omondi, who was not present in court. Mr. O. Onyango, Advocate, appeared for the Applicant.
2. I sought to know from the 2<sup>nd</sup> Respondent, who admittedly is not an Advocate of the High Court of Kenya (within the meaning ascribed under the *Advocates Act*, Cap 16 Laws of Kenya) the capacity upon which he purported to act for the 1<sup>st</sup> Respondent upon which he referred me to a document that he had filed, titled “Delegated Authority”, whose contents are as follows:

Delegated Authority

Take Notice that, pursuant to Order 13 Rule 1, *Civil Procedure Rules*, I Emmey Atieno Omondi, the 1<sup>st</sup> Respondent herein, do hereby authorize Jack David Odhiambo, the 2<sup>nd</sup> Respondent herein to appear, plead and act on my behalf henceforth. All future correspondence and pleadings should henceforth be directed to the said Jack David Odhiambo, P.O. Box xx, 40100 Kisumu. Email xxx.com, Mobile xxx.

Dated & Signed At Siaya This 17<sup>th</sup> Day Of December, 2024.

[signed]

Emmey Atieno Omondi.



Drawn And Filed By:

**The 1<sup>st</sup> Respondent/defendant.**

3. Noting that both Respondents were not represented by legal counsel and that the 2<sup>nd</sup> Respondent is not a donee of a power of attorney from the 1<sup>st</sup> Respondent, I gave the 2<sup>nd</sup> Respondent an opportunity and time to look up the law concerning his capacity to purport to act for the 1<sup>st</sup> Respondent, on the strength of the document that the 1<sup>st</sup> Respondent had filed. Upon returning to court, he proffered the position that the law allowed him to act as such. His position necessitated the instant ruling.
4. Under Section 31 of the *Advocates Act*, a person who is not an advocate of the High Court of Kenya, cannot represent another party in a civil case. The general rule is that only an advocate who is duly qualified and who has been admitted and holds a current practicing certificate may practice law or represent other parties in legal proceedings. As a matter of law, practicing without being qualified or holding oneself out as an advocate when one is not, is an offence and the 2<sup>nd</sup> Applicant's act of purporting to represent the 1<sup>st</sup> Applicant in my view amounts to practicing without being qualified. I will however leave that there.
5. Order 9 Rule 1 of the *Civil Procedure Rules* provides that a party may appear in person or through a duly appointed advocate. Order 9 Rule 2(c) of the [Civil Procedure Rules](#) allows a recognized agent, including someone holding a power of attorney, to act on behalf of a party but is limited to appearance for purposes of taking procedural steps in the case, but not to conduct a trial or argue the case unless they are an advocate (see *In Re: Estate of G.K.K (Deceased)* [2017] eKLR and *Isaac Gathungu Wanjohi v Kinyanjui T/A Njuca Consolidated Co.* [2012] eKLR).
6. In [Kenya Power & Lighting Company Ltd v Benzene Holdings Ltd t/a Wyco Paints](#) [2016] eKLR, the court emphasized that:

“Only an advocate with a valid practicing certificate has a right of audience before a court on behalf of another person.”
7. From the foregoing, the 2<sup>nd</sup> Respondent does not have capacity in law to act for and on behalf of the 1<sup>st</sup> Respondent. The document filed by the 1<sup>st</sup> Respondent purporting to authorize the 2<sup>nd</sup> Respondent to act on her behalf is therefore of no legal effect. I expunge it from the record.
8. That said, noting that the two Respondents are not represented by legal counsel and are acting pro se, I will give them an opportunity to put their respective houses in order, which may include appointing legal counsel to represent them.
9. This matter will be mentioned on 23<sup>rd</sup> October, 2025 for directions.

**DELIVERED (VIRTUALLY), DATED & SIGNED THIS 24<sup>TH</sup> DAY OF JULY, 2025.**

**JOE M. OMIDO.**

**JUDGE**

For Applicant: Mr. Jonyo.

1<sup>st</sup> Respondent: No Appearance.

2<sup>nd</sup> Respondent: No Appearance.

Court Assistants: Mr. Ngoge & Mr. Juma.

