



**Hussein v United States International University - Africa (Constitutional Petition E379 of 2020)
[2023] KEHC 1602 (KLR) (Constitutional and Human Rights) (10 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1602 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
CONSTITUTIONAL PETITION E379 OF 2020**

AC MRIMA, J

MARCH 10, 2023

BETWEEN

FATMA ADAM HUSSEIN PETITIONER

AND

UNITED STATES INTERNATIONAL UNIVERSITY - AFRICA . RESPONDENT

RULING

1. By way of a Notice of Motion application dated September 17, 2021 the Petitioner herein, Fatma Adam Hussein, sought to strike out the Respondent's Replying Affidavit dated January 28, 2021 and the Supplementary Affidavit dated September 7, 2021 deposed to by one Amb. Prof. Ruthie Rono, for want of authority.
2. The reason for seeking the striking out of the dispositions was that the deponent, Amb. Prof. Ruthie Rono, resigned from the Respondent as the Deputy Vice-Chancellor Academic & Student Affairs sometimes in 2019 and that the replacement process immediately began around September 2019. As such, it was contended that the deponent lacked the capacity to represent the Respondent as the incumbent Deputy Vice-Chancellor Academic & Student Affairs and this Court was urged to accordingly strike out her dispositions.
3. In response to the application, Amb. Prof. Ruthie Rono swore a replying affidavit dated October 26, 2021.
4. In the said affidavit, Amb. Prof. Ruthie Rono deposed that she served as the Respondent's Deputy Vice-Chancellor Academic & Student Affairs from 2014 until February, 2021 when Prof. Munyae Mulinge took over the functions of the office in an acting capacity. She further deposed that she continues to work as a Professor of Psychology in the Respondent's institution.



5. Parties filed written submissions in respect to the application. They also referred to several decisions.
6. This Court has had the advantage of perusing the Petition, its response, the application and its response as well as the written submissions to the application.
7. It is the position that the contents deposed by Amb. Prof. Ruthie Rono in her Replying Affidavit on October 26, 2021 remain factually uncontested. It, therefore, remains a fact that Amb. Prof. Ruthie Rono relinquished the position as the Respondent's Deputy Vice-Chancellor Academic & Student Affairs in February, 2021 and not in 2019 as alleged by the Petitioner. Further, she now remains as a Lecturer in the institution.
8. With such a position, the application lacks any legal leg to stand on. I must, however, point out that even if Amb. Prof. Ruthie Rono had truly resigned from the Respondent in 2019 still there can be legal bar for her to file any dispositions on behalf of the Respondent as long as they concern matters which she could positively attest to.
9. Having said so, it goes without much say that the application is devoid of merit and suffered a false start.
10. Consequently, the following orders do hereby issue: -
 - a. The Notice of Motion dated September 17, 2021 is hereby dismissed.
 - b. The Petitioner shall bear the costs of the application.

Orders accordingly.

DELIVERED, DATED and SIGNED at KITALE this 10th day of March, 2023.

A. C. MRIMA

JUDGE

Ruling virtually delivered in the presence of:

Mr. Kedino, Counsel for the Petitioner.

Miss. Kibore, Counsel for the Respondent.

Regina/Chemutai – Court Assistants.

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