



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

COMMERCIAL AND ADMIRALTY DIVISION

CIVIL SUIT NO. 39 OF 2007

ANNA MARIE CASSIEDE

BRUNO CASSIEDE.....PLAINTIFFS/RESPONDENTS

- VERSUS -

PETER KIMANI KAIRU T/A KIMANI KAIRU & CO.

ADVOCATES.....DEFENDANT/APPLICANT

RULING

1. The defendant filed a Notice of Motion dated 18th March 2020. That application was filed when the courts had closed down due to the COVID-19 pandemic. It follows that the application which was filed through email, the then procedure, was presented before me without the court file of this matter. That application was argued before me on 30th July 2020 and a Ruling date was given for today.
2. On my consideration of this matter I found it impossible to make a Ruling on the application in the absence of the court file. As it will be noted this case was filed in the year 2007. It follows there is possibly many orders or proceedings which may impact my Ruling of the application.
3. It is impossible for me to render a Ruling to the application without the original file which to date has not been traced in the court registry. In view of the fact the Hon. the Chief Justice has transferred me from this court as at 1st November 2020 I find the just order to make is for the deputy registrar of this court to trace the original file of this matter and place the same before the incoming judge of this Division.
4. The order I make is that:
 - a. The proceedings of 30th July 2020 are hereby set aside and the Notice of Motion dated 18th March 2020 shall be heard de novo before the incoming judge.
 - b. At the reading of this Ruling parties will be given a date to appear before the Deputy Registrar for the Deputy Registrar to confirm availability of the original file.

Orders accordingly.

DATED, SIGNED and DELIVERED at NAIROBI this 13th day of OCTOBER 2020.

MARY KASANGO

JUDGE

Before Justice Mary Kasango

C/A Sophie

For the Plaintiff:

For the Defendants:

ORDER

This decision is hereby virtually delivered this 13th day of **October, 2020**.

MARY KASANGO

JUDGE