



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**COMMERCIAL AND TAX DIVISION**

**HCCC NO. E065 OF 2019**

**FIRST COMMUNITY BANK LIMITED.....PLAINTIFF**

**-VERSUS-**

**SAMIRAS DEVELOPMENT CO. LTD.....1<sup>ST</sup> DEFENDANT**

**SULEIMAN MOHAMED ALI.....2<sup>ND</sup> DEFENDANT**

**MOHAMED ISSACK NOOR.....3<sup>RD</sup> DEFENDANT**

**MAHADI ENERGY LIMITED.....4<sup>TH</sup> DEFENDANT**

**RULING**

1. Through the application dated 25<sup>th</sup> August 2020, the plaintiff/applicant seeks orders that: -

- 1. That, the firm of ISSA & COMPANY ADVOCATES be granted leave to come on record on behalf of the plaintiff in place of the firm of Kenyariri & Associates Advocates.**
- 2. That costs of the application be in cause.**

2. The application is supported by the affidavit of the applicant's advocate **Mr. Mansur Muathe Issa** and is premised in the grounds that: -

- 1. That the suit against the Defendants was filed on 4<sup>th</sup> April 2019 by the firm of Kenyariri & Associates acting on behalf of the plaintiff.**
- 2. That on 29<sup>th</sup> April 2019, the Honourable court entered judgment against the Defendants for the sum prayed for in the plaint together with a return rate of 14% per annum.**
- 3. That on 29<sup>th</sup> July 2020, the firm of Issa & Company Advocates received instructions to act on behalf of the plaintiff in place of the firm of Kenyariri & Associates Advocates.**
- 4. That, by a letter dated 4<sup>th</sup> August 2020 the firm of Issa & Company Advocates wrote to the firm of Kenyariri & Associates to enquire whether they had any objection and whether the consent could be filed to effect the change.**
- 5. That the letter further requested the firm of Kenyariri & Associates Advocates to release the respective files to enable the firm of Issa & Company Advocates to file a notice of change of advocates.**
- 6. That by an email dated 14<sup>th</sup> August 2020, the firm of Kenyariri & Associates wrote to the firm of Issa & Company Advocates objecting to come on record for the plaintiff.**
- 7. That as judgment has been entered the leave of this honourable court is required before the notice of change of advocates is filed.**

**8. That it is proper and just for the firm of Issa & Company Advocates to be granted leave to come on record.**

3. The application was not opposed by the respondents and the applicant's former advocates on record. At its hearing, the applicant's advocate **Miss Agwata** urged the court to allow it as prayed.

4. I have perused the affidavit of service dated 26<sup>th</sup> October 2020 and I am satisfied that the law firms of Prof. Albert Mumma & co. and Kenyariri & Associates were duly served with both the application and the hearing notice. Consequently, I allow the application as prayed. I also direct that the ruling herein shall apply to the other related matters before me being; HCCOM. E69 and E70 of 2019.

**Dated, signed and delivered via Microsoft Teams at Nairobi this 3<sup>rd</sup> day of December 2020 in view of the declaration of measures restricting court operations due to Covid -19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on the 17<sup>th</sup> April 2020.**

**W. A. OKWANY**

**JUDGE**

**In the presence of:**

Miss Agwata for Issa for Plaintiff/Applicant.

No appearance for Defendants.

Court Assistant: Sylvia