



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 243 OF 2017

FORMERLY NAKURU ELC NO. 346 OF 2011

SAMWEL KIPKURGAT LANGAT.....PLAINTIFF

VERSUS

CHELULE TUIMISING.....1ST DEFENDANT

ZEPHANIAH YEGON.....2ND DEFENDANT

KOSIA SET KOBOR SELF HELP GROUP.....3RD DEFENDANT

RULING

The Defendant applicant had by a notice of motion dated 25th September, 2019 sought for orders to set aside the judgement of court that was delivered on 22nd May, 2018 and the subsequent decree that was issued on 17th January, 2019. However, the plaintiff respondent had filed a Notice of Preliminary Objection to the application on the grounds that the documents filed by the Defendants/Respondents offend the provisions of section 9 and 31 of the Advocates Act and pursuant to the above all documents filed by the Respondents be struck out. The Preliminary Objection was based on the grounds that Mr Koech Kiprotich Joseph the advocate acting for the applicant had last taken out a practicing certificate in 2018 and was therefore not certified to practice law.

Even though the court directed the parties to file their respective submissions on the Preliminary Objection none of them had done so and I will proceed without their submissions.

Under the provisions of section 9 of the Law society Kenya Act all advocates are required to take out practicing certificates annually and authenticate them to appear before court.

In the instant matter there is a letter dated 7th November, 2019 attached to the Preliminary Objection for the law society of Kenya programme officer for compliance and ethics in which it is confirmed that Mr Koech Kiprotich Joseph had no practicing certificate and was thus not authorized to practice in law. In view of the contents of the aforesaid letter all documents and pleadings filed by the said advocate are null and in the circumstances I uphold the Preliminary Objection dated 11th October, 2019 and I accordingly order that they be expunged from the record.

DATED, SIGNED and DELIVERED in open court at NAROK on this 12TH day of MARCH, 2020.

Mohammed Kullov

Judge

12/3/2020

In the presence of:

CA:Chuma/Kimiriny

Mr Kambo for Chepngetich for the plaintiff

N/A for the defendant

Mohammed Kullow

Judge

12/3/2020