



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KITALE**

**WINDING UP CAUSE NO. 1 OF 2011**

**AFRICA OIL TURKANA LTD & OTHERS.....PETITIONERS**

**VERSES**

**09036558 B C LTD .....SUPPORTING CREDITOR/RESPONDENT**

**AND**

**EDWARD KINGS MAINA & OTHERS.....5<sup>TH</sup> CONTRIBUTOR/APPLICANT**

**RULING**

1. By a lengthy notice of motion dated **19<sup>th</sup> June 2019**, the **5<sup>th</sup> Contributor /Applicant** has prayed for various orders from this court. The same is supported by an affidavit sworn on the same date though indicated as 2010.
2. When the matter came up for hearing **ANTHONY LESHAN Advocate** held brief for the other counsels on record and submitted orally just as the applicant was allowed to do so. The said counsel also filed a replying affidavit dated **7<sup>th</sup> October, 2019** in which he prayed that the application be dismissed as the issues raised had been decided. There was also a grounds of opposition on record filed by the Respondents as well as the preliminary objection.
3. Reading the application as well as the supporting affidavit and the annexures attached, this court is convinced that the issues raised by the applicant had long been dealt with and the only option left for the applicant was to file an appeal.
4. The other applications were matters dealt with by the Deputy Registrar of this court and they border on executions among others.
5. I have taken the liberty and looked at the various rulings in the court file namely that dated **2<sup>nd</sup> July 2013**, by the Deputy registrar, **5<sup>th</sup> December 2013, 14<sup>th</sup> October, 2014 and 28<sup>th</sup> May, 2019** and they all dealt with the matters raised by the Applicants.
6. The applicant within this application as rightfully submitted by the counsel for the Respondents cannot be allowed to bring in other parties whether employees of various parties on record or for that matter individual advocates acting for their clients into the case. It is not only late in the day but it borders on disrespect on their professional work noting that they were not parties in the case in the first instance.
7. The question of the costs which was awarded to the Applicant is no longer open for discussion as the applicant seemed to invite me to. If the Respondents have deposited the sum in court what better way does the applicant expect the court to assist. He should collect the sum from the relevant court section barring any other requirements, if any, imposed on the said sum.
8. In summary litigation must come to an end. The Applicant should appeal any decisions of this court if aggrieved. This court cannot hold anybody in contempt as the Applicants want without any fault.
9. This application is hereby dismissed with costs.

**Dated, signed and delivered in open court at Kitale this 18<sup>th</sup> day of November, 2019.**

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**H K CHEMITEI**

**JUDGE**

18/11/19

**In the presence of:-**

**Kings 5<sup>TH</sup> Contributor present**

**No appearance for Respondent**

**Court Assistant – Kirong**

**Ruling read in open court**