



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

[Coram: A. C. Mrima, J.]

MISC. CIVIL APPLN. NO. 25 OF 2019

ISAIAH OTIENO OSODO.....APPLICANT

-VERSUS-

1. ALLIANCE ONE TOBACCO (K) LTD

2. HON. ATTORNEY GENERAL.....RESPONDENTS

RULING

1. The Applicant herein, **Isaiah Otieno Osodo**, filed an undated application by way of the Notice of Motion on 11/04/2019. The application sought leave to file an appeal out of time in respect of a judgment delivered on 21/09/2017 by **Hon. M. M. Wachira**, Senior Resident Magistrate. I will hereinafter refer to the undated Notice of Motion as '**the application**'.

2. The application was made on the grounds appearing on the face thereof. It was supported by the Affidavit sworn by the Applicant.

3. The First Respondent opposed the application. It filed a Replying Affidavit sworn by its Counsel on 05/08/2019 and evenly filed in Court.

4. The parties agreed that the application be heard by way of the Court's reliance on the application and the Replying Affidavit on record. The Applicant appeared in person whereas the First Respondent was represented by Counsel. The Second Respondent did not participate in the hearing.

5. This Court was reminded by the First Respondent that the Applicant had filed a like application in **Misc. Civil Application No. 288 of 2018** on 01/10/2018. That, the matter was dismissed on 01/04/2019 on the ground that the Applicant was represented by Counsel in the lower court case and he had not sought leave of the Court to appear in person. The Applicant was directed to first regularize his position. The Applicant did not object to the deposition.

6. The Applicant then filed the application about 10 days later. Alongside the application he filed a Notice to Act in Person.

7. To me, the issue which rendered **Misc. Civil Application No. 288 of 2018** incompetent still remain unaddressed. It is clear that the Applicant is either ignorant of the law or is being 'assisted' by someone who is devoid of legal knowledge.

8. The application is hence incompetent. It is hereby struck out with costs. I assess the costs at Kshs. 10,000/= (Ten Thousands Only). The costs shall be paid to the First Respondent only since the Second Respondent did not participate in the hearing. The Applicant shall not file any like application unless he complies with payment of the costs herein.

Orders accordingly.

DELIVERED, DATED and SIGNED at MIGORI this 10th day of December, 2019.

A. C. MRIMA

JUDGE

Judgment delivered in open Court and in the presence of: -

Isaiah Otieno Osodo, the Applicant in person.

Mr. Abisai Counsel instructed by Messrs. Abisai & Company Advocates for the First Respondent.

Evelyne Nyauke - Court Assistant