



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL AND ADMIRALTY DIVISION-MILIMANI**  
**MISC. CIVIL APPLICATION NO.178 OF 2017**

NGUGI MWANGI & CO. ADVOCATES.....ADVOCATE/RESP

**VERSUS**

ALLOY STEEL CASTINGS LIMITED.....CLIENT/APPL

**R U L I N G**

This is a ruling on Notice of Motion dated 9<sup>th</sup> April 2018 filed by the Client/Applicant. It seeks determination on retainer.

Grounds on the face of the application are as follows:-

- That that the Applicant/Client herein dispute issuing instructions to the Applicant to represent the in Milimani CMCC Case Number 9772 of 2006
- That the Applicant/Client instructed the firm of Maosa & Company Advocates to file that suit; that the Applicant is a stranger to the Respondent.

The application is supported by the Affidavit of Tejwant S.Sagoo the Director of the Respondent Company.

He restated grounds on the face of the application. He attached Plaintiff to confirm that the firm of Maosa & Company Advocates filed the suit. He averred that the Respondent has never retained services of the Applicant/Advocate herein.

The Applicant/Advocate never filed response to the application herein. I have not also seen any submissions filed by the Applicant/Advocate.

Upon dispute being raised by the Client on issuance of instructions, it was incumbent upon the Advocate to demonstrate that they were indeed instructed by the Client. No document has been filed to show that the Advocate received instructions from the Applicant herein to act in Milimani CMCC No. 9772 of 2006. Despite being given time to file response to this application, the Advocate/Applicant failed to do so.

From the foregoing, I find that the Advocate/Respondent has failed to demonstrate that the Client/Applicant retained the firm of Ngugi Mwangi & Co. Advocates to act in Milimani CMCC No. 9772 of 2006.

**FINAL ORDERS**

1. The Advocate herein was not retained by **ALLOY STEEL CASTINGS LIMITED to act on their behalf in** Milimani CMCC No. 9772 of 2006.
2. Costs of this application to the Client/Applicant

**Ruling Delivered, Dated and Signed at Nairobi this 6<sup>th</sup> day of December, 2018**

**RACHEL NGETICH**

**JUDGE**

**IN THE PRESENCE OF**

**SAKINA: COURT ASSISTANT**

**OWADE H/B FOR MR. MULI: COUNSEL FOR CLIENT/APPLICANT**

**NGUGI MWANIKI: COUNSEL FOR ADVOCATE/RESPONDENT**