



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND ADMIRALTY DIVISION-MILIMANI

MISC. CIVIL APPLICATION NO.179 OF 2017

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

VERSUS

EAST AFRICA FOUNDRY WORKS LIMITED.....CLIENT/APPL

RULING

This is a ruling on Notice of Motion dated 9th 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 dispute issuing instructions to the Applicant to represent the in Milimani CMCC Case Number 2750 of 2006.
- That the Applicant instructed the firm of Kabare & Company Advocates to represent them in that suit; that the Respondent/Advocate is a stranger to the Respondent.

The application is supported by the Affidavit of Tejwant S. Sagoo the Director of the Applicant/Client Company.

He restated grounds on the face of the application. The Applicant/Client averred that the Applicant/Client has never given any instructions to the Advocate/Respondent to file a suit on its behalf against Wigma Enterprises Limited.

He averred that the Applicant Company instructed the firm of Kabare & Company Advocates to file a case for recovery of money from Wigma Enterprises Limited being Milimani CMCC No. 2750 of 2006. He attached copy of plaint to confirm that.

The Respondent/Advocate never filed response to the application herein.

Despite being given time to file response, the Advocate/Respondent failed to file any document to rebut the Applicants averments.

From the foregoing, I find that the Advocate/Applicant has failed to demonstrate that the Client /Applicant retained Ngugi Mwangi & Co. Advocates to act in Milimani CMCC No. 2750 of 2006.

FINAL ORDERS

1. The Advocate/Respondent herein was not retained by EAST AFRICA FOUNDRY WORKS LIMITED to represent the Company in Milimani CMCC No.2750 of 2006.
2. Costs of this application to the Client/Respondent.

Ruling Delivered, Dated and Signed at Nairobi this 6th day of December, 2018

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RACHEL NGETICH

JUDGE

IN THE PRESENCE OF

SAKINA: COURT ASSISTANT

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

NGUGI MWANIKI: COUNSEL FOR ADVOCATE/RESPONDENT