



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**JUDICIAL REVIEW NO. 293 OF 2016**

**IN THE MATTER OF AN APPLICATION FOR ORDER OF CERTIORARI AND MANDAMUS**

**AND**

**IN THE MATTER OF KENYA REVENUE AUTHORITY ACT, INCOME TAX ACT AND  
VALUE ADDED TAX ACT**

**REPUBLIC .....APPLICANT**

**VERSUS**

**KENYA REVENUE AUTHORITY.....RESPONDENT**

**NEW LIGHT TRADERS LIMITED.....EXPARTE**

**RULING**

1. In this case, the court notes that the applicant's advocate is unable to challenge the allegations contained in the affidavit sworn on 14<sup>th</sup> December 2016 by the respondent's counsel Mr Pius Njiru Nyaga to the effect that the applicant's counsel has never taken out an annual practicing certificate for the period 2009 to date. It is an offence under the Advocates Act, Sections 9 and 34 thereof for a person to practice as an advocate without taking out an annual practicing certificate.
2. These proceedings were initiated on 12<sup>th</sup> July 2016 and the annexure to the respondent's motion dated 14<sup>th</sup> December 2016 is a letter dated 2<sup>nd</sup> December 2016 signed by Deputy Secretary, Law Society of Kenya Ms Florence Muturi showing that the last time the advocate Mr Ndwiga took out a practicing certificate is in the year 2000.
3. Further, the status quo report on the advocate Mr Ndwiga, obtained from Law Society of Kenya website on 13<sup>th</sup> December 2016 by the respondent's counsel is clear that he has been inactive and non-compliant and in 2016 he was inactive. That being the case, I find that the applicant's counsel had no locus to file these proceedings and to obtain on behalf of this client any orders from this court.
4. Advocates are officers of the court and they practice upon being licensed by the Chief Registrar of the Judiciary on recommendations of the Law Society of Kenya, the premier Bar Association for lawyers in Kenya. Without such a licence, they commit an offence and are liable for discipline for professional misconduct. They are also likely to occasion to their clients losses which cannot be compensated by an award of damages as they have not taken out Advocates' Professional Indemnity Insurance Cover.

Each profession is regulated by professional bodies for good cause.

5. For the above reasons, I have no hesitation in finding that Mr Evanson Njue Ndwiga advocate is not qualified to practice before any court of law and neither was he qualified as at the time of drawing and filing pleadings in this case.

6. Accordingly, the pleadings and proceedings herein in their entirety are hereby struck out. Each party to bear their own costs of the proceedings.

7. Orders accordingly.

**Dated, Signed And Delivered In Open Court At Nairobi This 27th Day Of March, 2017**

**R.E. ABURILI**

**JUDGE**

**In the presence of:**

Mr Ndwiga for exparte applicant

Nyaga for the Respondent

CA: George