

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 93 OF 2013

IN THE MATTER OF AN APPLICATION BY JANE NJOKI GITUANJA

RULING

1. The respondents to the Motion dated 15th December 2015 have raised a preliminary objection to that application, on the grounds that it is premature, incompetent, lacking *locus standi* and is an abuse of the court process.
2. The objection as framed is very general in nature, and does not directly point out the particular aspects of the Motion which render it premature or incompetent or an abuse of process. There is a vagueness around it which no doubt embarrasses the applicant in terms of how she can competently and effectively answer the objection.
3. I note that the respondents have filed a replying affidavit through Michael Mungai Kimani, sworn on 2nd March 2016. A preliminary objection raises a pure point of law, and should be resolved without the court having to look out for facts. Consequently, a preliminary objection and a replying affidavit cannot possibly stand together. Filing both no doubt means that the preliminary objection is not in fact a preliminary objection.
4. There cannot be any merit in the preliminary objection dated 29th February 2016. I shall overrule it. The applicant shall have costs of the objection. The applicant is at liberty to have her application dated 15th December 2015 fixed for hearing.

DATED, SIGNED and DELIVERED at NAIROBI this 12TH DAY OF MAY, 2017.

W. MUSYOKA

JUDGE