



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

ELC MISC. APPL. NO. 3 OF 2020

1. HENRY SHIKUKU BARASA
2. JOASH CHIMUNGE WASWA
3. JOHN NYONGESA NGEYWA

(Suing as the duly authorized representatives of

MATISI OUTREACH CHURCH.....APPLICANT

VERSUS

REUBEN FWAMBA MBITA.....RESPONDENT

RULING

1. The applicant filed chamber summons dated 13/2/2020 on 14/2/2020 seeking the following orders:

- (1) ...spent
- (2) ...spent
- (3) That this court be pleased to enlarge the time within which to file a reference against the decision of the taxing officer delivered on 9/9/2019.
- (4) That the letter of objection to the reference attached herein be considered as proper and same be filed upon payment of requisite charges.
- (5) ...spent
- (6) That this court be pleased to stay the execution of the Deputy Registrar's ruling delivered on 9/9/2019 pending the hearing and determination of this application.
- (7) That this court be pleased to issue directions on hearing of the reference filed subject to paragraph 4.
- (8) That costs of the application be borne by the respondent.

2. The application is brought under **Rule 11 of the Advocates Remuneration Rules, Section 1A, 1B, and 3A of the Civil Procedure Act Cap 21 and Order 42 of the Civil Procedure Rules**. The application is supported by the affidavit of the applicant dated 13/2/2020.

3. The respondent filed replying affidavit dated 27/2/2020. On 27/2/2020 the respondent filed notice of preliminary objection against the entire application on the following grounds:-

- (1) That the application is fatally defective and offends the mandatory provisions of law particularly Section 19 of the Civil Procedure Act and Order 2 of the Civil Procedure Rules 2010.
- (2) That the application is a gross abuse of the due process of the law hence be struck out.

4. In a sitting in open court held on **27/2/2020**, orders were issued that the parties file their respective submissions within a given time frame. The parties failed to file submissions and a fresh order for the filing of submissions was issued on **4th June 2020** and a public notice issued by the Deputy Registrar. The applicant filed no submissions on the application. The respondent filed his submissions on **17/6/2020**.

5. By reason of the applicants' failure to comply with a lawful court order to file submissions and thereby prosecute the application, and no other manner of disposal of the instant application having been provided for, the application dated **13/2/2020** is hereby dismissed for want of prosecution.

Dated, signed and delivered at Kitale via electronic mail on this 21st day of July, 2020.

MWANGI NJOROGI

JUDGE, ELC, KITALE.