



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 10 OF 2010

ZIPPORAH CIARURU MUKUIRU.....PLAINTIFF/RESPONDENT

VERSUS

STEPHEN KUNGUTIA BAIMUTI.....1ST DEFENDANT/APPLICANT

THE DISTRICT LAND ADJUDICATION OFFICER.....2ND DEFENDANT/RESPONDENT

THE HON. ATTORNEY GENERAL3RD DEFENDANT/RESPONDENT

RULING

1. Vide an application dated 13.2.2020, the 1st defendant seeks the following orders:

(a) That this honourable court be pleased to issue an order allowing the firm of KITHEKA & OUMA ADVOCATES LLP to come on record for the 1st defendant herein who was previously represented by the firm of J. Nelima Associates & Co. advocates.

(b) That the bill of costs annexed herewith be deemed as properly filed and served.

(c) That this honourable court be pleased to give directions on taxation of the bill of costs annexed herewith upon issuance of order No. 1 and 2 above.

(d) That the costs of this application be in cause.

2. The application is premised on the grounds on the face of it and in the affidavit of the applicant.

3. The plaintiff respondent has opposed the application vide a replying affidavit dated 24.6.2020.

4. I have considered all the arguments raised by the parties. **Order 9 rule 9 of the Civil Procedure Rules** provides that:

“When there is a change of advocate, or when a party decides to act in person having previously engaged an advocate, after judgment has been passed, such change or intention to act in person shall not be effected without an order of the court— (a) upon an application with notice to all the parties; or (b) upon a consent filed between the outgoing advocate and the proposed incoming advocate or party intending to act in person as the case may be”.

5. The applicant herein filed a notice to act in person on 1.10.2019, which indicates that he served his former advocate (Nelima and associates). However in the present application the 1st defendant has made no reference to this document. There appears to be some kind of mischief with this party. He ought to declare his stand as between himself and the previous advocate.

6. I decline to allow the current application which is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT MERU THIS 30TH DAY OF SEPTEMBER, 2020

HON. LUCY. N. MBUGUA

ELC JUDGE

ORDER

The date of delivery of this ruling was given on 14.7.2020. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17th March, 2020 and published in the Kenya Gazette of 17th April 2020 as Gazette Notice no.3137, this ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the ***Civil Procedure Rules*** which requires that all judgments and rulings be pronounced in open court.

HON. LUCY N. MBUGUA

ELC JUDGE