



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL SUIT NO. 6 OF 2007**

**R N M.....PLAINTIFF**

**VERSUS**

**W M K.....DEFENDANT**

**RULING**

1. I note that the suit herein was commenced by way of an Originating Summons dated 6<sup>th</sup> February 2007.
2. The said Originating summons was ordered amended on 3<sup>rd</sup> May 2012. There is a draft amended Originating Summons dated 3<sup>rd</sup> May 2011 on record. The same was deemed in the order of 3<sup>rd</sup> May 2011 as duly filed.
3. The said amended Originating Summons dated 3<sup>rd</sup> May 2011 is not signed by the advocates for the plaintiff.
4. It is a cardinal principle of civil procedure that pleadings must be duly executed by the party filing them or by the advocates acting for them. Unexecuted pleadings are incompetent and a suit founded on such pleadings is equally incompetent. The failure to execute pleadings cannot be wished away under **Article 159** of the Constitution. Execution of pleadings goes to the core of the suit.
5. In view of the foregoing, I am unable to prepare judgment based on unexecuted pleadings. To do justice to the parties, I hereby direct that this file be returned to the registry. Thereafter the plaintiff shall regularize the amended Originating Summons dated 3<sup>rd</sup> May 2011 by signing it. The matter shall thereafter be mentioned before me for directions on a date to be fixed at the registry.

**DATED, SIGNED and DELIVERED at NAIROBI this 14<sup>th</sup> DAY OF March, 2014.**

**W. M. MUSYOKA**

**JUDGE**