

REPUBLIC OF KENYA

IN THE HIGH COURT

AT BUNGOMA

Criminal Application 3 of 2011

BENJAMIN W. BARASA.....PLAINTIFF/APPLICANT

~VRS~

REPUBLIC (STATE COUNSEL).....1ST DEFENDANT/RESPONDENT

MRS ELIZABETH NAMUSASI WANGILA.....2ND DEFENDANT/RESPONDENT

M/S OMUKUNDA & CO. ADVOCATES.....3RD DEFENDANT/RESPONDENT

M/S BULIMO & CO. ADVOCATES.....4TH DEFENDANT/RESPONDENT

OKILE & CO. ADVOCATES.....5TH DEFENDANT/RESPONDENT

RULING

When on 1/2/2011 the Applicant filed a notice of motion in this miscellaneous file he was seeking to be arrested by the court and released on bail. The anticipatory bail was sought because he feared police officers were going to arrest him following a complaint by various people in regard to a land transaction. He feared he would be arrested and tortured. The application was pending hearing when he placed in the file another motion dated 13/1/2012 against Mrs. Elizabeth Namusasi Wangila, m/s Omukunda & Co. Advocates, M/s Bulimo & Co. Advocates and M/s Okile & Co. Advocates charging them with colluding with police. He also charged the advocates with professional negligence. Lastly, he alleged the Respondents had defamed him. That motion was still pending when on 2/2/2012 he filed another motion complaining that police had illegally confined him, he had been forced to transfer land using a forged certificate of confirmation of grant, and other matters. On 13/1/2012 he had filed a motion to amend the first motion in the file.

Looking at the affidavits of the Applicant and Elizabeth Namusasi Wangila there is a dispute between them regarding some confirmed grant, monies paid between them, fees demanded by the advocates and then there is a complaint regarding professional advise that was got from the advocates. Somewhere along the line, police were investigating the Applicant.

The applications on record cannot be used to address any of these complaints. The complaint in regard to the confirmed grant can be addressed in the relevant Succession Cause. A complaint about the professional conduct of the advocates should be addressed to the Law Society of Kenya, and any dispute between him and Elizabeth Namusasi Wangila should be brought in an appropriate suit. The initial application for anticipatory bail has now been compromised by these other complaints and applications.

It is for these reasons that I find all these applications have no basis in law, are incompetent and an abuse of the process of the court. They are all struck out with costs.

Dated, signed and delivered at Bungoma this 5th day of July 2012.

**A. O. MUCHELULE
JUDGE**