

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC CASE NO. 20 OF 2018

FELIX KIRIMI MBAYA.....PLAINTIFF

VERSUS

SALOME BAHATI M'MUTIGA.....DEFENDANT

RULING

1. An application has been made for the striking out of the Replying Affidavit filed on 28.1.2019 on the basis that it violates the provisions of order 7 rule 1 of the Civil Procedure Rules.
2. The explanation given for late filing of the document is that Mr. Muthomi, counsel for respondent has been unwell.
3. I have perused the record and I find that the replying affidavit is not just any other affidavit. It is actually a pleading as it is a response to the originating summons. It is irregular for pleadings to be filed haphazardly without any due regard to the law. The Respondent's counsel was sick, but he has still managed to file this Replying Affidavit, which means that he was in a position to take the proper route of filing an appropriate application to file the defence out of time.
4. The replying affidavit filed on 28.1.2019 is hereby struck out.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 30TH JANUARY, 2019

IN THE PRESENCE OF:-

C/A: Kananu

Wambugu for plaintiff

Odhiambo holding brief for Muthomi for defendant

Plaintiff

HON. LUCY. N. MBUGUA

ELC JUDGE