



Barta (Suing as the Legal Representative to the Estate of the late Oloishuro Ole Barta Kura) v Farah & another (Civil Application 48 of 2020) [2025] KECA 1629 (KLR) (9 October 2025) (Ruling)

Neutral citation: [2025] KECA 1629 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPLICATION 48 OF 2020
MA WARSAME, JA
OCTOBER 9, 2025**

BETWEEN

MORETET OLE BARTA (SUING AS THE LEGAL REPRESENTATIVE TO THE ESTATE OF THE LATE OLOISHURO OLE BARTA KURA) APPLICANT

AND

ALI FARAH 1ST RESPONDENT

SONKOI OLE MUNKASIA 2ND RESPONDENT

*(An application by the firm of Ochillo & Co. Advocates
to cease acting for the applicant in the appeal)*

RULING

1. The firm of Ochillo & Co. Advocates has filed the instant application dated 24th May, 2024, pursuant to Rule 23(2) of the [Court of Appeal Rules](#) seeking to cease acting for the appellant in the appeal, Moretet Ole Barta.
2. The application is premised on the grounds set out on its face and is supported by an affidavit sworn by Samuel Ochillo, Advocate. The grounds are that the appellant has refused to give proper instructions and has ignored and failed to honour several invitations to the advocates' chambers to prepare and be briefed on the case. Consequently, in the absence of sufficient instructions, counsel is unable to represent the appellant, hence the instant application for this court's consideration.
3. The appellant has not filed a response to the application.



4. Rule 23(2) of this Court's Rules provides as follows:

“An advocate who desires to cease acting for a party in a civil appeal or application, may apply by notice of motion before a single Judge for leave to so cease acting, and such advocate shall be deemed to have ceased to act for such party upon service on the party of a certified copy of the order of the judge.”

5. I have considered the application and the contents thereof. Rule 51 of this Court's Rules requires that a notice of motion and copies of all affidavits be served on all necessary parties after the filing of the application unless otherwise directed. There is no affidavit of such service by Messrs Ochillo & Co. Advocates, nor any correspondence to indicate that the appellant is no longer interested in their case or has ignored counsel's invitation to discuss their case.

6. In the absence of such documentary evidence demonstrating proper service upon the appellant as required by the Rules, I am inclined to dismiss the application with no orders as to costs.

DATED AND DELIVERED AT NAKURU THIS 9TH DAY OF OCTOBER 2025.

M.WARSAME

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

