



REPUBLIC OF KENYA



**Wachira v Kagwimi Kang'ethe & Company Advocates (Miscellaneous Cause 339 of 2017) [2026] KEHC 731 (KLR) (Civ) (29 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 731 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CIVIL  
MISCELLANEOUS CAUSE 339 OF 2017  
JN MULWA, J  
JANUARY 29, 2026**

**BETWEEN**

**MARGARET WANGECI WACHIRA ..... APPLICANT**

**AND**

**KAGWIMI KANG'ETHE & COMPANY ADVOCATES ..... RESPONDENT**

**RULING**

1. The Applicant Margaret Wangechi Wachira by her motion dated 19/02/2025 seeks numerous orders from the court as herein under:-
  1. Spent
  2. That this Honourable Court be pleased to grant the Applicant leave to Act in person.
  3. This Honourable court be pleased to stay execution of court orders dated 30<sup>th</sup> June, 2023 pending determination of this application.
  4. That Honourable Court be pleased to set aside Ruling delivered on the 8<sup>th</sup> June 2023 requiring valuation of the Applicant's residential premises being property number Nairobi/Block 104/411 and its sale by public auction.
  5. That this Honourable Court be pleased to reinstate her Application dated 17<sup>th</sup> May, 2022 and have the same determined on merit.
  6. That this Honorable Court be pleased to have this matter under Hc. Misc. No. 339 of 2017 and HC Misc. Cause No. 121 of 2017 consolidated since they refer to the same subject matter being property number Nairobi/Block 104/411 and apply to the same parties.



7. That this Honourable Court be pleased to make any such further order(s) and issue any other relief it may deem just to grant in the interest of justice.
8. That cost of this application be provided for.
2. The motion is premised on Sections 1A, 1B and 3A of the Civil Procedure Act and Order 22 Rule 22 of the Civil Procedure Rules (CPR), supported by grounds on its face, and amplified by the Applicant's deposition at her supporting affidavit sworn on an even date.

The Applicant's case is that the Respondent M/S Kagwimi Kang'ethe & Co. Advocates acted in the suit herein without her knowledge or consent all the way leading to court orders dated 8/06/2023 wherein her property, Nairobi/Block104/411 was ordered to be sold to defray the said Advocates legal fees in the sum of Kshs. 174,944/- plus accrued interest as at 30/07/2019.
3. The Applicant further alleges that the said law firm despite being on record failed to attend court or file responses to the motion dated 17/05/2022 which the law firm alleged to have served upon her as well as admitting in her affidavit that she had paid the said law firm Kshs. 150,000/= as all inclusive costs for legal services rendered to her.
4. The Applicant further posits that issues in this matter are similar as filed in Hc. Misc. Cause No. 121/2017 in which the Advocates sought to have the property sold hence urges for consolidation of the two suits.
5. In addition, the Applicant posits that her case (this case) was being handled by her Advocate Mwangi Keny'ara & Co. Advocates, arising from CMCC No. 487/2004 wherein a change of Advocates was made in 2005, and that the Advocates ceased from acting for her by an order of court of cessation dated 13/10/2006 and that despite of the said order, the law firm continued to act for her by filing a Notice of Appointment without any instructions, however, once again by a court order of 26/03/2014 the said Advocates ceased from acting for her.
6. To all the above and her further depositions, she denies existence of any legal fees owed to the Respondent and that the continued holding of her title to her property for nonexistence legal fees is illegal.
7. The Applicant therefore prays that the reliefs she seeks be allowed for interests of justice ((copies of the court orders are annexed hereto as exhibits).
8. In opposition to the motion, the Respondent/Advocates filed a replying affidavit sworn by George Kangethe Advocate the Applicant in the matter of Taxation of Advocates Client Bill of Costs in which the bill was taxed in the sum of Kshs. 174,944 plus interest and costs and in which, the applicant herein Mangaret Wangechi Wachira was duly represented by Ms. Wairegi Gatetha & CO. Advocates at the date of entry of judgment in the case.
9. The Advocates posits that judgment having been entered; the Applicant cannot act on her own without leave of court to act in person, which leave is yet to be granted in accordance with Order 9 Rule 9 CPR and thereby has urged dismissal of the motion under review.
10. The Advocates posit that its legal fees has not been paid, yet the applicant was ably represented in the Taxation and no reference was filed against the certificate of taxation and thus by a consent of her advocate judgment was thus entered for the Advocates on 30/07/2019 from which a decree was drawn on 22/08/2019 (exh. "GK 4"), that by motion dated 17/05/2022, the Advocates sought orders for attachment and sale the Applicants property referred as Nairobi/Block104/411 to recover its legal fees



which motion is said to have been served upon her Advocates evidenced by affidavits of service Exh. GK6” sworn on 13/06/2022.

11. At all times, it is the Applicants averments that the Advocates failed to attend court or file any opposition affidavits to the motion hence orders of 8/06/2023 and which notice the Applicant was duly served.
12. It is further posited that on 30/11/2023 when the matter was before the Deputy Registrar for settlement of terms of sale of the property, the Applicant was personally present in court having filed a Notice of Intention to Act in Person – “Exht. GKII and GK 12” of the above.
13. On the above basis, the Advocates submit that the Applicant has not laid down or established justifiable reasons to persuade the court to set aside the ruling/orders of 8/06/2023 and or grant orders sought in the motion.
14. The Advocates further state that Hcc. Misc. Cause No. 121/2017 is a separate suit and the proceedings are distinct, that judgment has already been entered against the Applicant who has partially settled the decretal sum, and therefore not suitable for consolidation with this suit.
15. Finally, the Advocates have urged that the application is an abuse of court process and ought to be dismissed with costs- (all motions and court orders referred to are attached annexures).

#### **Analysis and determination.**

16. The parties' Advocates urged their respective client's positions by oral arguments in court.  
The court has carefully considered the affidavit material placed before it by both parties and the oral highlights as well.

Issues for Determination

1. Whether the application as filed by the client Margaret Wangai Wachira is competent.
2. If answer to 1 above is in the negative, whether prayer numbers 3, 4, 5 and 6 ought to be granted to the Applicant.
3. Who bears the costs of the application?

#### **Competency of Motion Dated 19/02/2025**

17. This Miscellaneous cause arose from a suit filed as Milimani CMCC No. 487 of 2004 Margaret Wangechi Wachira v. Mary W. Gitau. Records before the court show that the Respondent Advocates law firm Kagwimi Kang'ethe & Co. Advocates (Respondent herein) represented the Applicant therein.
18. Upon conclusion of the case, the Advocates filed an Advocate-client bill of costs dated 18/08/2017 in this cause. As ably captured by this court in its ruling dated 13/02/2025, and amplified in the Respondents replying affidavit, at all material times, the Applicant/Respondent was represented by M/S Wairegi Gatethia & Co. Advocates as at date of entry of judgment in the lower court.
19. Further, in the said ruling of 13/02/2025 this court upon careful analysis of issues thereof took time to go back from the date of judgment and the proceedings, and made findings as hereunder:-

That the client/Applicant failed to participate in the post judgment proceedings by her advocates who at all material times were duly served with requisite motions and notices for



hearing; and during the taxation of the Bill of Costs the Applicant was personally present in court and intimated to the court that she would seek leave to act in person.

20. At the end, upon the court interrogating the merits and or otherwise of the motion dated 17/01/2024 (filed by the Advocates) and more specifically the issue whether the motion ought to be struck out for want of compliance with provisions of Order 9 Rule 9 CPR, came to the conclusion that indeed the Applicant (Margaret Wangechi Wachira) failed to comply with the mandatory provisions and struck out the application with costs (let parties read the rationale in the ruling delivered on 13/02/2025 for better understanding of the court's holding).

This court has not been told that there is an appeal filed and or pending against this ruling.

21. Instead, the Applicant moved this court seeking similar orders veiled in the manner of post the court's ruling as is seen in the application under review.
22. That being the case, and since the issue of compliance with Order 9 Rule 9 CPR has not been taken seriously by the Applicant it follows therefore that the Applicant cannot be allowed to represent herself before sorting out that issue of non-payment of the Advocates legal fees as shown in the certificate of taxation and the decree thereafter and the orders of the court emanating from the said certificate of taxation which once more has not been objected to in the manner of a reference to the judge as provided at the Advocates Remuneration Order Rule II thereof.
23. Without further ado, this court adopts its findings in respect of the first issue - whether the motion dated 17/01/2024 filed by the Applicant (Margaret Wangechi Wachira) ought to be struck out for want of compliance with provisions of Order 9 Rule 9 of CPR.
24. That having been said and done, the court in respect of this motion, finds in the same manner as in the earlier application leading to the unenviable conclusion that the notice of motion dated 19/02/2025 is incompetently filed by the Applicant, Margaret Wangechi Wachira without compliance with provisions of Order 9 Rule 9 of the CPR.

**The motion is struck out with costs to the Respondent/Advocates.**

25. The court will not belabor interrogation of the other reliefs sought in the motion.

Orders accordingly.

**DELIVERED DATED AND SIGNED AT NAIROBI THIS 29TH DAY OF JANUARY, 2026.**

.....

**JANET MULWA.**

**JUDGE**

