



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA ELC CASE NO. 154 OF 2017**

**FORMERLY MERU CIVIL CASE NO. 88 OF 2012**

**ENID MWIMBI MUTURI.....PLAINTIFF**

**VERSUS**

**BEDFORD MICHENI MUTUIRI.....DEFENDANT**

**RULING**

1. This application states that it has been brought to court under order 9 Rule 9 of the Civil Procedure Rules and all enabling provisions of the law.

2. The application seeks the following orders:

1. That the firm of Tombe & Company Advocates be granted leave to come on record to represent the plaintiff here in this matter.
2. That the Notice of Change of Advocates filed in court on 25<sup>th</sup> April, 2019 be adopted.

3. The application has the following grounds: -

- a) That Ruling of the honourable court in this matter was delivered on 19<sup>th</sup> April, 2018.
- b) That on 25<sup>th</sup> March, 2019 the firm of M/s Lucy Kaaria, Matumbi & Co. Advocates that was on record and representing the plaintiff in the matter ceased to represent the plaintiff and handed back the file to the plaintiff with instructions that they are no longer representing her.
- c) That the plaintiff has since instructed the firm of Tombe & Co. Advocates to represent her in the matter.
- d) That the firm of Tombe & Co. Advocates has already filed Notice of Change of Advocates in court.
- e) That it is for the interest of justice and equity that the firm of Tombe & Company Advocates be granted leave to come on record to represent the plaintiff in this matter.

4. The application is supported by the affidavit of Robert M. Tombe, the applicant, which states: -

I, ROBERT M. TOMBE of Post Office Box Number 16702-20100, Nakuru within the Republic of Kenya do hereby make oath and state as follows:

1. That I am an advocate of the high court practicing in the firm of Tombe & Co. Advocates hence competent to swear this affidavit.
2. That I have been instructed by the plaintiff which information I verily believe to be true that the Ruling in this matter was delivered on 19<sup>th</sup> April, 2018 whereby the plaintiff was by then represented by the firm of M/S Lucy Kaaria, Matumbi & Co. Advocates.
3. That I have also been instructed which information I verily believe to be true that on 25<sup>th</sup> March, 2019 the firm of M/S Lucy Kaaria, Matumbi & Co. Advocates that was on record and representing the plaintiff ceased to represent her and handed back the file to the plaintiff with instructions that they are no longer representing her in this case (see copy of annexure marked "EMM – I")

4. That the plaintiff has since instructed the firm of Tombe & Co. Advocates to represent her in the matter.
5. That the firm of Tombe & Co. Advocates has already filed Notice of Change of Advocates in court which we seek to be adopted as instructions of the plaintiff to the firm to come on record (see copy of annexure marked "EMM-II").
6. That it is for the interest of justice and equity that the firm of Tombe & Company Advocates be granted leave to come on record to represent the plaintiff in this matter.
7. That I swear this application in support of the firm's application filed herewith for orders sought therein.
8. That what is deponed to herein above is true to the best of my knowledge save as to matters deponed to on belief the grounds whereupon have been given.

5. When the application was slated to be heard on **17.6.2019**, the applicant and his advocate were not in court.

6. It is noted that there is no affidavit of service that this application has been served upon all the concerned parties. It is also noted that the ALTERNATIVE that a consent between the outgoing advocate and the proposed incoming advocate be filed has not been filed.

7. This application has been filed over 1 year since this court's ruling, which the applicant seeks to impugn, was delivered on **19<sup>th</sup> April, 2018**. This amounts to inordinate delay.

8. In the circumstances, this application is dismissed.

9. No order as to costs is issued.

Delivered in open court at Chuka this **17<sup>th</sup> day of June, 2019** in the presence of:

CA: Ndegwa

Parties – not in court

**P.M. NJOROGI**

**JUDGE**