



REPUBLIC OF KENYA



Mwaura v MNK (A Minor Suing through her Father and Next friend PKM) (Civil Appeal (Application) E295 of 2024) [2026] KECA 413 (KLR) (27 February 2026) (Ruling)

Neutral citation: [2026] KECA 413 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) E295 OF 2024
P NYAMWEYA, JA
FEBRUARY 27, 2026**

BETWEEN

JOSEPH KIIGE MWAURA APPELLANT

AND

**MNK (A MINOR SUING THROUGH HER FATHER AND NEXT FRIEND
PKM) RESPONDENT**

(An application by the Advocates for the Appellant for leave to cease acting to cease acting for the Appellant in the Appeal arising from the Ruling and Orders in High Court of Kenya at Nairobi (A. N. Ongeru J.) delivered on 19th October 2023 in Nairobi HCC No. 59 of 2011)

RULING

1. The firm of Wokabi Mathenge & Co. Advocates (hereinafter “the Applicant”), has filed an application by way of a Chamber Summons dated 28th September 2025, in which it seeks leave to cease acting for the appellant in the appeal. The application is supported by an affidavit sworn on even date by Daniel Wokabi Mathenge, the advocate having the conduct of the appeal. The Applicant avers that it no longer has instructions from the appellant and is unable to continue prosecuting the appeal. The Applicant has also filed submissions dated 28th October 2025 in support of the application, in which the above averments were reiterated and reliance was placed on rule 23(2) of the [Court of Appeal Rules, 2022](#).
2. There is no response to the application. An affidavit of service sworn by Daniel Wokabi Mathenge on 31st October 2025 attests that the application was served on the appellant on 3rd October 2025.



3. I heard the application in chambers in the absence of the parties on 16th February 2026, and have considered the reasons put forth by the Applicant. Rule 23 (2) of this Court's Rules provides as follows in this regard:

“An advocate who desires to cease acting for any 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.”

The requirements to be met under this Rule were explained by Nambuye JA as follows in the case of Kenya Tea Agency & Another v. Samuel W'njuguna & 115 Others [2021] eKLR:

“The Rule is permissive. All that an advocate needs to do under the above Rule to earn the courts intervention is for such an advocate to express the desire to cease acting and then cause the desire to cease acting to be brought to the attention of his client.”

4. The applicant has placed before the Court evidence of service of the application on the appellant and has therefore complied with the requirements of this rule. It is thus my finding that the application dated 28th September 2025 is merited, and the firm of Wokabi Mathenge & Co. Advocates is hereby granted leave to cease acting for the appellant in this appeal. There shall be no order as regards the costs of the application.

5. Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF FEBRUARY, 2026.

P. NYAMWEYA

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR.

