

**REPUBLIC OF
KENYA IN THE COURT
OF APPEAL
AT NAIROBI
(CORAM: P. NYAMWEYA,
J.A.)**

**CIVIL APPEAL (APPLICATION) NO. E173
OF 2024 BETWEEN**

**IRENE MUGURE NDERITU (Suing as the Administrator
of the Estate of PAUL MWANGI NDERITU).....1ST
APPELLANT**

**BERNARD NDERITU MWANGI.....2ND
APPELLANT**

AND

**ELIZABETH WANJIRU MWANGI (being sued as the
Administrator
of the Estate of PAUL MWANGI NDERITU).....1ST
RESPONDENT**

**REGISTRAR OF LANDS, NAIROBI.....2ND
RESPONDENT**

***(An application by the Appellant's Advocates for leave to
cease acting for the Appellant herein)***

RULING OF THE COURT

1. The firm of Shako & Company Advocates (hereinafter “the Applicant”), has filed an application by way of a Chamber Summons dated 2nd December 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 Paul Thuo, an advocate in the said firm. The Applicant avers that there was a breakdown of communication with the appellant, and as a result it does not have instructions

and is unable to continue prosecuting the appeal. The Applicant filed written submissions dated 12th February 2026 in support of the application, in which the decisions

of this Court in **Mutunga & Company Advocates vs Muithya & 2 others [2023] KEHC 22159 (KLR)** and **Gitau vs Waititu (Civil Appeal (Application) 8 of 2017) [2025] KECA 80 (KLR)** were cited for the position that advocates should not be forced to continue being on record when they have no instructions from their clients.

2. The application is not opposed. Two affidavits of service sworn by Paul Thuo on 3rd December 2025 and 13th February 2026 indicated that both the application and a hearing notice together with the Applicant's submissions were served on the appellant on 2nd December 2025 and 12th February 2026 respectively.
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 vs. 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 2nd December 2025 is merited, and the firm of Shako & Company 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

.....

..... **JUDGE
OF APPEAL**

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

Signed _

DEPUTY

REGISTRAR.