

IN THE COURT OF APPEAL
AT NYERI
(CORAM: ACHODE, JA (IN CHAMBERS))
CIVIL APPEAL (APPLICATION) NO. 127 OF 2019

BETWEEN

FRANCIS WAWERU KARIA.....APPELLANT

AND

MT. KENYA BOTTLERS LIMITED.....RESPONDENT

*(Being an application for leave to cease acting for the appellant
under rule 23(2) of the Court of Appeal Rules, 2022)*

RULING

1. The application before this Court is dated **24th January, 2026**, and is brought under **rule 23(2) of the Court of Appeal Rules, 2022**. It seeks for orders, that leave be granted to the firm of Waweru Macharia and Co. Advocates, to cease acting for the applicant Francis Waweru Karia, and the costs of the application be provided for.

2. The reasons stated on the face of the application and in the supporting affidavit sworn by Mr. Duncan Waweru Macharia learned counsel, dated 24th January, 2026, are that on 24th March, 2023, the appellant instructed the firm of Waweru Macharia and Co. Advocates to act for him in the appeal

herein. That thereafter he has refused to give him further instructions and as such, counsel is unable to prosecute the appeal to conclusion. That it has since become impossible to continue presenting the appeal and counsel has since written to the appellant to that effect. The said letter is annexed as ‘DWM 1’ dated 15th January, 2026.

3. The application is unopposed.
4. **Rule 23 (2) of the Court of Appeal rules 2022** provides that:

“An advocate who desires to cease from 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. In the ***Supreme Court Petition (Application) No. E033 of 2023*** being an application by M/s Mbugua Ng’ang’a and Company Advocates to cease acting for the 2nd respondent, Wanjala SCJ stated as follows:

“I opine that a court of law cannot compel a counsel to continue acting for a party who has lost interest in a matter for whatever reasons”.

The foregoing matter is on all fours with the application before me.

6. The appellant having been duly served and notified of the contents of the application under consideration, and the notice of motion being uncontested by the respondent, I am satisfied that the uncontested application herein has merit.

The application is therefore allowed as prayed. Costs shall be in the course.

It is so ordered.

Dated and Delivered at Nyeri this 13th Day of March, 2026

L. ACHODE

.....
JUDGE OF APPEAL

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