

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL  
AT NAIROBI**

**(CORAM: NDERI, JA (IN CHAMBERS))**

**CIVIL APPEAL (APPLICATION) NO. E1006 OF 2024**

**BETWEEN**

**HANNAH WANJIRU KINITI.....1<sup>ST</sup>**  
**APPELLANT JOHN NJENGA WANJIRU.....2<sup>ND</sup>**  
**APPELLANT**

**AND**

**RACHAEL NJANGO MWANGI** (*Suing in her capacity as  
Legal Representative and Administrator of the  
Estate of the late **MWANGI KABAIBU** - (Deceased).....***RESPONDENT**

***(Being an application to cease acting for the appellant in this  
appeal under rule 23(2) of the Court of Appeal Rules***

**RULING**

1. Serving before me is a Notice of Motion dated 24<sup>th</sup> November 2025 brought under Rule 23(2) of the Court of Appeal Rules by the firm of Kiarie Njuguna & Co. Advocates, seeking leave to cease acting for the appellants in this appeal.
2. The application is supported by the affidavit of **John Kiarie Njuguna**, Advocate, sworn on the same date. He depones that the appellants have withdrawn instructions in the lower court, filed a Notice to Act in Person, and made disparaging allegations against him, which they have declined to withdraw despite earlier

agreement.

He avers that the advocate-client relationship has irretrievably broken down, making it impossible to continue acting in the matter.

3. The record further contains a Notice to Act in Person dated 7<sup>th</sup> November 2025 filed by the 2<sup>nd</sup> appellant, John Njenga Wanjiru, confirming his intention to act in person. Additionally, there is material showing that the appellants have lodged complaints against counsel and refused to heed his advice.
4. The application was duly served upon the appellants and the respondent's advocates, Elizabeth Wangari & Co. Advocates, but no replying affidavit or grounds of opposition have been filed. The application is therefore unopposed.
5. I have considered the motion, the supporting affidavit, and the annexures. The principles governing cessation of representation are well settled.

6. In ***Njuguna Kahari and Kiai Advocates v Nairobi City Council***

[2020] eKLR, the Court (***W. Karanja, JA***) aptly observed:

***"...when differences between counsel and client become irreconcilable just like in a marriage, the relationship becomes untenable and the claim that bind the two parties must be severed."***

7. Similarly, in ***Kenya Tea Agency & Another v Samuel W'njuguna & 115 Others*** [2021] eKLR, ***Nambuye, JA***

emphasized that:

***“The Rule is permissive. All that an advocate needs to do under the above Rule to earn the court’s 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.”***

8. Applying the above principles to the present case, I am satisfied that the applicant firm has met the threshold. Firstly, by formally expressing its desire to cease acting through the filing of the present application. Secondly, by ensuring service upon the appellants and the respondent’s counsel, as borne out by the record. The appellants, having themselves filed a Notice to Act in Person, elected not to contest the application. The respondent has equally not opposed it. No prejudice will therefore be suffered.
9. In the circumstances, I find merit in the application and proceed to make the following orders: -
- a) The firm of Kiarie Njuguna & Co. Advocates is hereby granted leave to cease acting for the appellants in this appeal.
  - b) The appellants shall henceforth act in person unless they appoint another advocate.
  - c) The costs of this application shall be in the cause.

**Dated and delivered at Nairobi this 13<sup>th</sup> day of March 2026.**

**NDUMA NDERI**  
.....  
**..... JUDGE OF**  
**APPEAL**

I certify that this is a

true copy of the original.

***Signed***

**DEPUTY REGISTRAR.**