



REPUBLIC OF KENYA



**Gikonyo v Attorney General & 2 others (Civil Appeal (Application)  
E009 of 2023) [2026] KECA 671 (KLR) (25 March 2026) (Ruling)**

Neutral citation: [2026] KECA 671 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CIVIL APPEAL (APPLICATION) E009 OF 2023**

**S OLE KANTAI, JA**

**MARCH 25, 2026**

**BETWEEN**

**JOSEPH THEURI GIKONYO ..... APPELLANT**

**AND**

**THE ATTORNEY GENERAL ..... 1<sup>ST</sup> RESPONDENT**

**NICODEMUS WAKABA GITONGA ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**WAWERU MACHARIA & CO. ADVOCATES ..... APPLICANT**

*(An application for leave to cease acting for the 2nd Respondent against the Judgment of the Environment and Land Court of Kenya at Nanyuki (K. Bor, J.) delivered on 29th September, 2022 in E.L.C. Case No. 29 of 2021 Formerly Nyeri ELC Case No. 204 of 2014.)*

**RULING**

1. The Motion on notice is brought by M/s Waweru Macharia & Co. Advocates under rule 23(2) of the Court of Appeal Rules where the firm states that it has ceased acting for the 2<sup>nd</sup> respondent Nicodemus Wakaba Gitonga and they should be given leave to cease acting for him. They say that costs of the application be provided for. It is said in grounds in support of the Motion and in a supporting affidavit by Duncan Waweru Macharia that the 2<sup>nd</sup> respondent has failed, refused and/or neglected to pay advocates fees and that it has become impossible to represent him. It is deponed that the 2<sup>nd</sup> respondent instructed the applicant's firm to represent him on the appeal but had since refused to pay advocates fees and the firm is unable to continue representing him. Attached to the application is a copy of a letter dated 14<sup>th</sup> November, 2023 which speaks to letters written asking for payment of fees and the 2<sup>nd</sup> respondent is given a notice to pay fees in default the law firm would withdraw from acting for him.



2. There is no replying affidavit and I noted the Affidavit of Service sworn by the lawyer to the effect that he sent a copy of Notice of Motion to the 2<sup>nd</sup> respondent via WhatsApp on 12<sup>th</sup> January, 2024 and also served the office of the Attorney General on 16<sup>th</sup> January, 2024 and M/s Kebuka Wachira & Co. Advocates the same day 16<sup>th</sup> January, 2024.

I also noted Hearing Notice served on 25<sup>th</sup> February, 2026 at 1p.m.

3. Needless to say the law firm cannot continue representing a non-responsive client who does not respond to letters sent to him or pay advocates fees as required. The Motion has merit and I allow it with costs to the applicant's law firm.
4. Let the order be served personally on the 2<sup>nd</sup> respondent Nicodemus Wakaba Gitonga and also be served to the appellant and the 1<sup>st</sup> respondent.

**DATED AND DELIVERED AT NYERI THIS 25<sup>TH</sup> DAY OF MARCH, 2026.**

**S. OLE KANTAI**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

