



Commissioner of Insurance v Kensilver Express Limited & 192 others (Civil Appeal (Application) 61 of 2014) [2025] KECA 94 (KLR) (24 January 2025) (Ruling)

Neutral citation: [2025] KECA 94 (KLR)

REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) 61 OF 2014
M NGUGI, JA
JANUARY 24, 2025

BETWEEN

COMMISSIONER OF INSURANCE APPELLANT

AND

KENSILVER EXPRESS LIMITED & 192 OTHERS & 192 OTHERS & 192 OTHERS RESPONDENT

(Being an application to cease acting in an appeal arising from the ruling of the High Court (Ang'awa J.) dated 18th December 2007)

RULING

1. In its application dated 2nd October 2024, the firm of Millimo, Muthomi & Co Advocates seeks leave to cease acting for the 7th respondent, United Insurance Company Limited in the appeal. The application is brought under sections 3A and 3B of the [Appellate Jurisdiction Act](#) and rule 23(2) of the Court of Appeal Rules 2022.
2. The application is based on the grounds set out on its face and is supported by an affidavit sworn by Kevin Ng'ethe on 2nd October, 2024. The applicant avers that the firm was instructed by the Kenya Reinsurance Corporation Limited to represent the Statutory Manager of the 7th respondent, United Insurance Company Limited. By a judgment dated 12th July 2024, the High Court, in Milimani Commercial and Tax Division Winding Up Cause No. 22 of 2006- In the matter of United Insurance Co. Limited, issued a liquidation order in respect of United Insurance Co. Limited. The High Court also appointed Mr. Anantroy Kamal Bhatt as the liquidator of the 7th respondent. The applicant avers that it has not received instructions from the liquidator to represent the 7th respondent and is therefore unable to continue representing it. It therefore asks the Court to allow it, in the interests of justice, to cease acting for the 7th respondent.
3. The applicant has also filed submissions dated 2nd December 2024 in support of its application.



4. There is no response to the application. Two affidavits of service sworn by Onesmus Kisinga on 29th November 2024 and 2nd December 2024 indicate that both the application and a hearing notice were served on the 7th respondent.
5. Rule 23(2) of this Court's Rules provides that:

23(2) 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.
6. The applicant has complied with the requirements of this rule.

It has placed before the Court evidence of service of the application and of the hearing notice. This is what is required of a party under rule 23(2)-see Kenya Tea Development Agency & Theta Tea Factory Company Limited v Samuel W'njuguna & 1153 others [2021] KECA 643 (KLR).
7. It is my finding therefore that the application is merited, and it is hereby allowed, but with no order as to costs.

DATED AND DELIVERED AT NAIROBI THIS 24TH DAY OF JANUARY, 2025.

MUMBI NGUGI

.....

JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.

