



**Mwangi v Consolidated Bank of Kenya Limited & 3 others; M/S Harrison
Kinyanjui & Company Advocates (Applicant) (Civil Appeal (Application)
E104 of 2021) [2025] KECA 1047 (KLR) (11 June 2025) (Ruling)**

Neutral citation: [2025] KECA 1047 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) E104 OF 2021
W KARANJA, JA
JUNE 11, 2025**

BETWEEN

JOHN MATHARA MWANGI APPELLANT

AND

CONSOLIDATED BANK OF KENYA LIMITED 1ST RESPONDENT

COMMERCIAL MART LIMITED 2ND RESPONDENT

**JOSEPH KARIUKI T/A JOSRICK MERCHANTS AUCTIONEERS 3RD
RESPONDENT**

CHIEF LAND REGISTRAR 4TH RESPONDENT

AND

M/S HARRISON KINYANJUI & COMPANY ADVOCATES APPLICANT

*(Being an application to cease acting for the appellant in an appeal from
a ruling of the High Court (D.S. Majanja, J.) delivered on 10th February
2021 in Nairobi Commercial & Tax Division Civil Case No. 162 of 2019)*

RULING

1. On 10th February 2025, my sister Mumbi Ngugi, JA. dismissed the applicant's Notice of Motion seeking leave to cease acting for the appellant herein. The learned Judge found no evidence of service of the application on the applicant and dismissed the motion and directed that the applicant was at liberty to file another application seeking similar orders but with a rider that the applicant ensures service of the application on his client.



2. The firm of Harrison Kinyanjui Advocates have filed a similar application, but the question is, was the notice of motion dated 15th April 2024 served on the appellant?
3. At paragraph 5 of the application by learned counsel Mr. Harrison Kinyanjui on 15th April 2025, he deposes as follows:-

I have repeatedly informed the appellant via email and WhatsApp messages of my law firm's intent to cease acting absent his grant of instructions/further instructions on the matter without any response inspite of the mail and WhatsApp messages being delivered to the appellant ”

4. One such email is attached to Mr. Kinyanjui's affidavit.
5. In my view, however, this email does not amount to evidence of service of the application itself. There is no affidavit of service filed. I find no compliance with the direction by Mumbi Ngugi, JA.
6. I reiterate that the application to cease acting must be served on the client and an affidavit of service to that effect be filed in Court before the application can be re-listed for hearing.

DATED AND DELIVERED AT NAIROBI THIS 11TH DAY OF JUNE 2025.

W. KARANJA

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

