



**Suraya Property Group Limited v Gatabaka & 2 others (Civil Appeal
(Application) 13 of 2019) [2021] KECA 335 (KLR) (17 December 2021) (Ruling)**

Neutral citation: [2021] KECA 335 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) 13 OF 2019
KI LAIBUTA, JA
DECEMBER 17, 2021**

BETWEEN

SURAYA PROPERTY GROUP LIMITED APPELLANT

AND

NJERU GATABAKA 1ST RESPONDENT

RACHAEL MWIHAKI GATABAKA 2ND RESPONDENT

MUGA DEVELOPERS LIMITED 3RD RESPONDENT

*(Being an Application by the firm of Ngatia & Associates
Advocates seeking leave to cease acting for the Appellant)*

RULING

1. By a Notice of Motion dated 28th May 2021 and made under Rule 23(2) of the *Court of Appeal Rules*, counsel for the Appellant, M/s. Ngatia & Associates Advocates, seek leave to cease acting for the Appellant. Their application is supported by the affidavit of Frederick Ngatia, SC sworn on 28th May 2021. The Motion is made on the ground that the appellant's Managing Director, Peter Muraya, and the learned senior counsel mutually agreed that the appellant do engage alternative counsel to take over the conduct of this appeal on the appellant's behalf.
2. I have read Mr. Frederick Ngatia's supporting affidavit, the annexed email correspondence of 28th May 2021 (from the applicant to the appellant's Managing Director forwarding a copy of the application herein) and 29th May 2021 (from the appellant's Managing Director to the applicant acknowledging receipt of the application) and appreciate their contents. Accordingly, the Motion has been duly served on the appellant and the respective learned counsel for the respondents as evidenced by the Affidavit of Service of Paschal Wamunga sworn on 31st May 2021. The application is not opposed.



3. I have also considered the applicant's written submissions and the accompanying List of Authorities both of which are dated 2nd December 2021. Rule 23(2) of the Court of Appeal Rules requires an advocate who desires to cease acting for any party in a civil appeal or application, to 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.
4. I am satisfied that the applicant has properly expressed his firm's wish to cease acting for the appellant in accordance with Rule 23(2) (see [*KTDA and Another v Samuel Njuguna and 1153 Others \[2021\] eKLR*](#)). Accordingly, I hereby order and direct that –
 - a. leave be and is hereby granted to the firm of M/s. Ngatia & Associates to cease acting for the appellant;
 - b. learned counsel for the Appellant be deemed as having ceased to act for the Appellant on service upon the Appellant of this order; and
 - c. there be no orders as to costs.

DATED AND DELIVERED AT NAIROBI THIS 17TH DAY OF DECEMBER, 2021

DR. K. I. LAIBUTA

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JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR

