



Uwezo City Park Self Help Group & 6 others (Suing on their Behalf and on Behalf of more than 500 other Members of Uwezo City Park Self Help Group, Nairobi County) v Ahmad (Environment and Land Case Civil Suit 347 of 2019) [2024] KEELC 13349 (KLR) (22 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13349 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT 347 OF 2019**

LN MBUGUA, J

NOVEMBER 22, 2024

BETWEEN

**UWEZO CITY PARK SELF HELP GROUP 1ST PLAINTIFF
JUSTUS WAINAINA NJUGUNA 2ND PLAINTIFF
COSMUS KUSU NYOIKE 3RD PLAINTIFF
LYDIA NYAGUTHI MIANO 4TH PLAINTIFF
DANSON NGUMI MWANGI 5TH PLAINTIFF
PETER MAINA NDEGWA 6TH PLAINTIFF
JACOB WEKESA 7TH PLAINTIFF
SUING ON THEIR BEHALF AND ON BEHALF OF MORE THAN 500 OTHER
MEMBERS OF UWEZO CITY PARK SELF HELP GROUP, NAIROBI COUNTY)**

AND

MOHAMMED ABDULLE AHMAD DEFENDANT

RULING

1. Before me is the plaintiff’s Notice of Motion dated 12.8.2024 seeking a stay as well as a review of the judgment delivered on 25.7.2024. The application is premised on the grounds on the face of the application and the supporting affidavit of Danson Ngumi Mwangi, the 5th plaintiff. He contends that their submissions were not considered by the court, that the court did not consider that the plaintiffs are in occupation of the suit property, that the court failed to appreciate that they have structures and trees on the suit property and that there is new evidence showing that the lease of the suit property was in the process of being renewed.



2. In response, the defendant filed a Replying affidavit dated 30.8.2024 as well as a Preliminary Objection dated 26.8.2024 contending that the firm of Victor Anyango & Company are not properly on record and their application was filed contrary to the provisions of Order 9 rule 9 of the Civil Procedure Rules.
3. It is pertinent to note that the applicants have not in anyway responded to the preliminary issue of legal representation. Instead, the applicants simply submitted on matters of review. However, the court is duty bound to consider the preliminary issue before progressing into the merits of the application.
4. The law governing representation of a party after judgment is to be found under Order 9 Rule 9 of the Civil Procedure Rules, where it is provided that;

“When there is a change of advocate, or when a party decides to act in person having previously engaged an advocate, after judgment has been passed, such change or intention to act in person shall not be effected without an order of the court — (a) upon an application with notice to all the parties; or (b) upon a consent filed between the outgoing advocate and the proposed incoming advocate or party intending to act in person as the case may be.”

5. In the case of *Chepkwony & Another vs Jonathan Sitonik Chebusit & Another* [2021] eKLR, the court stated thus;

“Clearly the provisions of Order 9 Rule 9 of the Civil Procedure Rules make it mandatory that for any change of Advocates after judgment has been entered to be effected, then there must be an order of the court upon application with notice to all parties or upon a consent filed between the outgoing Advocate and the proposed incoming Advocate”.

Also see *Bryan Moturi & Associates v Simmons & Another* (Miscellaneous Application 369 of 2015) [2022] KEHC 559 (KLR) (13 May 2022) (Ruling) Neutral citation: [2022] KEHC 559 (KLR) amongst a host of other similar decisions.

6. Judgment in this matter was delivered on 25.7.2024 hence the above mentioned provisions of law apply. The advocates for the applicants did not seek leave of the court to come on record, nor do they have the requisite consent. As such the application dated 12.8.2024 is irregularly filed by an advocate who is not properly on record, and the same is hereby struck out with costs to the defendant.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF NOVEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Anyango for Plaintiff

Ngwaro for Respondents

Court Assistant: Vena

