



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

MISC APPLICATION JR NO. 373 OF 2016

REPUBLIC.....APPLICANT

VERSUS

THE SECRETARY, PUBLIC SERVICE COMMISSION.....1ST RESPONDENT

AND

THE PRINCIPAL SECRETARY

MINISTRY OF SPORTS, CULTURE AND ARTS.....2ND RESPONDENT

EX PARTE SAMMY NZIOKI

RULING

1. This ruling relates to the application by the *Ex Parte* Applicant brought by Notice of Motion dated 27th February 2017, seeking an order that Counsel for the Respondents, Wycliffe Odukenya withdraws from this case, on the ground that he gave misleading information to the Court.
2. The Applicant also faults Mr. Odukenya for failure to produce full information during the hearing of the main case.
3. In response, Mr. Odukenya submits that the Applicant appears to have a problem interpreting the judgment delivered by **Mbaru J** on 13th February 2017. Counsel adds that the documents presented in Court were obtained from the Respondents and asking him to withdraw from the case, just because the judgment was not in the Applicant's favour, has no legal basis.
4. I have looked at the grounds on the face of the Applicant's application and find that his grievance arises from presentation and determination of issues that were dealt with on merit by **Mbaru J**. I therefore find no grounds upon which Counsel who is duly instructed to act for the Respondents may be asked to withdraw from this case. To this extent only, the Applicant's application dated 27th February 2017 fails.
5. Regarding the part of the application dealing with recusal by **Mbaru J**, with whom I have concurrent jurisdiction, I have nothing to say. I however find no legal basis for me to take over this matter from my sister judge, who has already delivered judgment and is within the jurisdiction of the Court.
6. I make no order for costs.

7. Orders accordingly.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 22ND DAY OF
SEPTEMBER 2017**

LINNET NDOLO

JUDGE

Appearance:

Sammy Nzioki (the Applicant in person)

Mr. Odukenya for the 1st and 2nd Respondents