



Malombo t/a OM Robinson & Company Advocates v Premier Flour Mills Ltd (Miscellaneous Civil Application E076 of 2023) [2025] KEHC 12004 (KLR) (30 July 2025) (Ruling)

Neutral citation: [2025] KEHC 12004 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CIVIL APPLICATION E076 OF 2023**

**J NGAAH, J
JULY 30, 2025**

BETWEEN

**ROBINSON O MALOMBO T/A OM ROBINSON & COMPANY
ADVOCATES ADVOCATE**

AND

PREMIER FLOUR MILLS LTD CLIENT

RULING

1. A notice, dated 5 May 2025, to show cause why the two directors of the respondent should not be committed to prison for failure to settle the applicant's decree in the sum of Kshs. 43, 806,071.70 was set to be heard on 24 June 2025. When Mr. Malombo, the applicant rose to speak, he sought a determination by this Honourable Court, on whether the firm of M/s Orange & Company Advocates is properly on record.
2. Apparently, this firm of advocates had drawn and filed a replying affidavit on behalf of the two directors in response to the notice to show cause. According to Malombo, if the said firm of M/s Orange & Company Advocates is not properly on record for the directors, the affidavit ought to be expunged from the record.
3. In response, Mr. Orange of M/s Orange & Company Advocates, submitted that his firm came on record after the lifting of the veil of the respondent, a move that enjoined the directors of the respondent to personally settle the decretal sum. According to the learned counsel, both his firm and the firm of M/s Munyao, Muthama and Kashindi Advocates appear together for the respondent company and its directors.
4. I note that there are two notices on record with respect to representation of the respondent company filed by the firm of M/s Orange & Company Advocates. The first is a notice of appointment dated 27 January 2025 and filed on 31 January 2025. The notice is categorical that this firm has been appointed



to act for the respondent company. The second notice is a notice of change of advocates dated 4 February 2025. In this particular notice, it is stated that:

“Take notice that the respondent herein has appointed the firm of Ms Daniel Oreng & Compnay Advocates Chester House, 1st Floor Suite 12 Koinange Street P.o. Box 26235-00100 Nairobi to act for him(sic) in this suit.”

5. The flaw in this second notice is easy to see. Though headed “a notice of change of advocates”, its body suggests that it a notice of appointment of advocates. More fundamentally, having previously filed a notice of appointment of advocates, the same firm of advocates could not subsequently file a notice of change of advocates, purportedly to represent the same party that it is hitherto acting for. Neither can it plausibly file another notice of appointment of advocates to act for the same party that it is already on record for.
6. The ultimate result is that the purported notice of change or appointment of advocates dated 4 February 2024 is superfluous and of no legal consequence.
7. Like the firm of M/s Oreng & Company Advocates, the firm of M/s Munyao, Muthama & Kashindi advocates also filed two notices of appointment of advocates except that two notices, both dated, 2 April 2025 are respectively for the appointment of the firm of advocates to act for the respondent and the respondents’ directors. They were filed on the same date.
8. There should not be any doubt, therefore, which of the two firms represents the respondent’s directors. While the two firms represent the respondent, the firm of M/s Munyao, Muthama & Kashindi Advocates, represents the respondent’s directors as well. As a matter of fact, this is what the court record of the proceedings of 2 April 2025 reflects. On the material date, the Mr. Oreng and Mr. Amakobe of the firm of M/s Munyao, Muthama & Kashindi Advocates are recorded to be representing the respondent when the matter was first called out. When parties appeared in open court at 1:15 P.M. Mr. Oreng is recorded as holding brief for Mr. Muthama for the directors.
9. Against this background, I find it unnecessary for the court to have been engaged on the question of representation of parties when the notices of appointment of advocates filed by the respective counsel for the respondent and its directors speak for themselves. The notice to show cause shall be heard in open court on 30 September 2025. It is so ordered.

SIGNED, DATED AND DELIVERED ON 30 JULY 2025.

NGAAH JAIRUS

JUDGE

