



REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA AT NAIROBI
(Coram: Wanjala, SCJ)

PETITION (APPLICATION) NO. E033 OF 2023

–BETWEEN–

HARCHARAN SINGH SEHMI.....1ST APPELLANT

JASWARANA SEHMI.....2ND APPELLANT

–AND–

TARABANA COMPANY LIMITED.....1ST RESPONDENT

ROSPATECH LIMITED.....2ND RESPONDENT

CHIEF LAND REGISTRAR, NAIROBI.....3RD RESPONDENT

NATIONAL LAND COMMISSION.....4TH RESPONDENT

INSPECTOR GENERAL OF POLICE.....5TH RESPONDENT

THE ATTORNEY GENERAL.....6TH RESPONDENT

–AND–

MBUGUA NG'ANG'A & CO. ADVOCATES.....APPLICANT

(Being an application by M/s Mbugua Ng'ang'a & Co. Advocates to cease acting for the 2nd respondent)

Representation:

Mr. Shama *h/b* for Mr. George Mbugua Ng'ang'a for the applicant
(Mbugua Ng'ang'a & Co. Advocates)

Mr. Mumo *h/b* for Mr. David Njoroge for the 1st and 2nd appellants
(Igeria & Ngugi Advocates)

Mr. Khayega Chivai for the 1st respondent
(Kipkorir Cheruiyot Chivai & Kigen Advocates)

Mr. Allan Kamau for the 3rd, 5th and 6th respondents
(State Counsel Office of the Attorney General)

RULING OF THE COURT

[1] **UPON *perusing*** the Motion dated 31st January 2024 and lodged on 8th February 2024 brought pursuant to Rule 18 (6) and (7) of the Supreme Court Rules, 2020 seeking the following orders, that: *the firm of Mbugua Ng'ang'a & Company Advocates (hereinafter, 'the firm') be granted leave to cease from acting for Rospatech Limited; and costs of this application be provided; and*

[2] **UPON *reading*** the affidavit in support of the Motion sworn by George Ng'ang'a Mbugua, Advocate on 31st January 2024, wherein, he depones that his client, the 2nd respondent herein, has ceased contact and that despite several reminders, has failed to give him proper instructions and is therefore unable to proceed with the Petition; and

[3] **UPON *considering*** the applicant's written submissions dated 7th February 2024, and filed on 8th February 2024, as well as the Affidavit of Service sworn on 13th February 2024, in which Counsel submits that the 2nd respondent was served with the present application and its attendant directions electronically on 12th February 2024, through its Director Martin Njuguna on WhatsApp via his last known telephone number and email address, pursuant to Section 16 of the Supreme Court Rules 2020; and

[4] **BEARING IN MIND** that the application was served upon all other parties and is uncontested, and further considering that Section 23(2)(g) of the Supreme Court Act, 2011 grants a single Judge jurisdiction to determine the application in the following terms:

23. Exercise of powers of the Court

(2) A single judge may hear and determine an application for the following preliminary procedures—

(g) withdrawal of an advocate to cease acting for a party;

[5] I OPINE that, a court of law cannot compel counsel to continue acting for a party, who has lost touch or interest in the matter for whatever reason.

[6] ACCORDINGLY, I now make the following Orders:

- a) The Notice of Motion dated 31st January 2024, and lodged on 8th February 2024, is hereby allowed.***
- b) Consequently, the Firm of M/s Mbugua Ng'ang'a & Co. Advocates, is hereby granted leave to cease acting for the 2nd respondent;***
- c) The costs of this application shall be borne by the 2nd respondent.***

It is so Ordered.

DATED and DELIVERED AT NAIROBI this **12th Day of April 2024**.

.....
S. C. WANJALA
JUSTICE OF THE SUPREME COURT

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

**REGISTRAR,
SUPREME COURT OF KENYA**