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(11)

IN THE COURT OF APPEAL
AT NAIROBI

(CORAM: COCKAR, MULI & AKIWUMI J.J.A.)

CIVIL APPLICATION NO. 238 OF 1994 (114/94 UR)

COUNCIL OF LEGAL EDUCATION
PRINCIPAL KENYA SCHOOL OF LAW AFFLICANTS

AND

IN THE MATTER OF APPLICATION BY RITA BIWOTT RESPONDENT

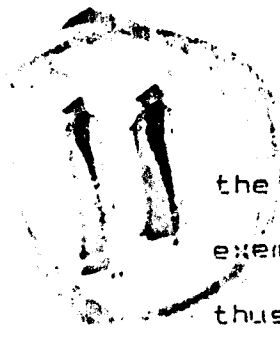
(Application for stay of execution in an Intended
Appeal from the Ruling of the High Court of Kenya at
Nairobi (The Hon. Mr. Justice Shah) given on 26th
October, 1994)

in

H.C.C.C. MISC. APPL. 1122 OF 1994)

RULING OF THE COURT

In the spring of 1991, the respondent obtained a Bachelor of Arts degree from McGill University at Montreal, Quebec in Canada. On 17th July, 1991, she was admitted as a full time student in the Faculty of Law, University of Edinburgh, in order to pursue a course of study to qualify for the degree of LLB. It is not in dispute that the syllabus for the LLB degree at Edinburgh University is designed to be covered in a period of 3 years. The respondent, however, in view of the B.A. degree which she held from McGill University, was exempted from the first year's study and in consequence was able to complete the required studies to qualify for the LLB degree after a period of study spread over 2 years only. This exemption was permissible and provided for in



the relevant rules and regulations of the University. The exemption was properly and legitimately granted. The respondent thus obtained her LLB degree from Edinburgh University after completing the prescribed course of study in 2 years. The LLB degree was awarded to her on 17th July, 1993.

On 14th July, 1993, the respondent applied to the Council of Legal Education (hereafter referred to as the Council) for admission to the Kenya School of Law (hereafter referred to as the Law School) to undertake the prescribed course of legal education in preparation for the examination specified in Part IV of the Advocates (Admission) Regulations, Advocates Act, Cap 16, (hereafter referred to as the Act). At the same time she also applied to the Attorney General to be taken as a pupil in his chambers in accordance with the provisions of the Act. The Attorney General accepted her application for pupillage and, at the same time informed the Principal of the Law School to that effect. On 18th March, 1994, the Secretary of the Council informed the respondent by a letter that the Council at its meeting of 14th February, 1994, had not approved her two-year law degree from the University of Edinburgh under Section 17(1) of the Act. This decision was confirmed to the respondent's advocate through the letter of 9th May, 1994. On 5th September, 1994 an application under Order 53 of the Civil Procedure Rules and other relevant Acts was filed in the Superior Court for an Order of Mandamus to issue. On the undisputed evidence before him and submissions made to him the learned judge in a considered