



REPUBLIC OF KENYA



KENYA LAW
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**Mbugua v Kariha & 21 others (Environment & Land Case
E4 of 2020) [2023] KEELC 17058 (KLR) (26 April 2023) (Ruling)**

Neutral citation: [2023] KEELC 17058 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE E4 OF 2020**

FM NJOROGE, J

APRIL 26, 2023

BETWEEN

ZEPHANIA GITAU MBUGUA PLAINTIFF

AND

CHEGE NGANGA KARIHA 1ST DEFENDANT

SILVALINE INVESTMENT LIMITED 2ND DEFENDANT

THE CHIEF LANDS REGISTRAR 3RD DEFENDANT

JOHN KARIUKI TUMBU 4TH DEFENDANT

FRANCIS KOIGU KIRAGURI 5TH DEFENDANT

FRANCIS KARIUKI MWANGI 6TH DEFENDANT

MARY WANJIKU MUREU 7TH DEFENDANT

DOMINIC KINGA MWANGI 8TH DEFENDANT

JOHN HARRY THUKU 9TH DEFENDANT

JOHN MWANGI THUKU 10TH DEFENDANT

SHIPHIRA WANJIKU MWANGI 11TH DEFENDANT

STEPHEN NJENGA MUREITHI 12TH DEFENDANT

WILSON NDERITU BACIA 13TH DEFENDANT

HEZRON KAMAU GICHURU 14TH DEFENDANT

LUCAS BOSIRE MAROKO 15TH DEFENDANT

RUTH NJERI MATIRU 16TH DEFENDANT

MAURICE MBEJA OCHOLI 17TH DEFENDANT



JOHN NGANGA GITHII	18TH DEFENDANT
JOY NASAMBU KIMAKWA	19TH DEFENDANT
TERESIA NJERI NJOGU	20TH DEFENDANT
WILFRED NYAKUNDI MWAMBI	21ST DEFENDANT
REGINA WANGARI	22ND DEFENDANT

RULING

1. Mr. Nyachoti for the plaintiff states he is ready to proceed. Mr. Gichigi states he was issued with instructions only last week by the 4th, 7th and 19th defendants and that he requires time to file response to the suit on their behalf.
2. Ms. Mwaniki stated that Ms. Njeri Njagua has an emergency and cannot attend court for this hearing today. This is a matter involving land and the 4th, 7th and 19th defendants who are represented by Mr. Gichigi, are said to be settled on it.
3. An injunctive order is in existence in regard to the suit land. I am of the view that Mr. Gichigi for the 4th, 7th and 19th defendants must as an officer of the court be deemed to be stating truthfully the matters that he has brought forth today. I also have no reason to believe that the 7th and 19th defendants knew of this matter or of the hearing date scheduled for today.
4. Given the ramifications of proceeding without their documents having been filed in these proceedings, this court opts to exercise abundant caution and apply its discretion to adjourn this hearing as prayed by Mr. Gichigi.
5. Concerning Ms Njagua's predicament, though no specifics were divulged regarding the personal emergency she is involved in at the moment, this court is ready to give her an allowance for the reason that in life there can be unpredictables. Consequently, this hearing is adjourned.
6. Considering that Mr. Gichigi's sentiments as to whether specific orders had been made that the hearing can proceed without service on the defendants who have not appeared, I note that this issue is bound to delay the hearing of this case for a long time if it comes up each time the matter is listed for hearing, and to obviate the occurrence of such an objection in future, I hereby order that the plaintiff shall at all times when this matter has been fixed for mention or hearing advertise the hearing notice beforehand by way of affixing it in a conspicuous manner on the court's notice board with the leave of the Deputy Registrar of this court and proof of such advertisement shall be filed in court before each sitting, and all those who have not filed appearance or defence shall be considered as properly served for each advertised sitting.
7. Regarding the issue of costs, I hereby order that all the defendants save the 5th, 22nd and 8th and 21st defendants shall bear the costs of the plaintiff for this day in any event.
8. The 4th, 7th and 19th defendants are hereby granted leave to file and serve their responses to the suit and all other documents in compliance within 14 days hereof. Mention of this suit shall be on 31/5/2023 to confirm compliance and this interregnum shall allow the plaintiff, or any defendant, as the case may be, once served, to respond to the replies by those defendants.
9. It is so ordered.



**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 26TH DAY OF
APRIL 2023.**

MWANGI NJOROGE

JUDGE, ELC, NAKURU

