



Wanjala & others v Musioma & 4 others (Environment and Land Case Civil Suit 300 of 2004) [2023] KEELC 17597 (KLR) (31 May 2023) (Ruling)

Neutral citation: [2023] KEELC 17597 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT 300 OF 2004**

**LN MBUGUA, J
MAY 31, 2023**

BETWEEN

NEWTON WANJALA AND OTHERS PLAINTIFF

AND

JOSEPH SIRO MUSIOMA 1ST DEFENDANT

CRESENT CONSTRUCTION COMPANY LIMITED 2ND DEFENDANT

KAIRU ENTERPRISES 3RD DEFENDANT

PAN AFRICAN BANK LTD (IN LIQUIDATION) 4TH DEFENDANT

COMMISSIONER OF LANDS 5TH DEFENDANT

RULING

1. This ruling relates to the issue raised by counsel Osoro for the 11th Interested Party for the consolidation of the suit ELC 300 of 2004 with ELC 1064 of 2014 which averments were supported by counsel for the plaintiff in ELC 300 of 2004. Counsels for the 1st, 2nd and 3rd defendants have opposed the consolidation of the two matters contending that the only link is an order in ELC 300 of 2004 which affected Case No 1064 of 2014.
2. I find that the suit 1064 of 2014 was transferred from Judge Okongo to Judge Eboso on November 18, 2020 for possible consolidation with case No. 300 of 2004. However on various dates, counsels for the various parties expressed their wish that the matters should just be handled concurrently. Thus on 3.6.2021, an order was made in case No. 1064 of 2014 for that suit to be heard alongside Case No 300 of 2004. Similarly on June 30, 2021, an order was made in Case No. 300 of 2004 for the two files to be heard concurrently by the same court. I find no plausible reason to vary the pronouncements made earlier on that issue of consolidation.



3. The only rider that the court shall give is that proceedings shall be recorded separately in each of the two files.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31ST DAY OF MAY, 2023 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Mr. Ndiso for Plaintiff

D. Angwenyi holding brief for Mwangi for 1st & 2nd Defendants

Njuguna and Mrs. Muchiri for 3rd Defendant

Cheptuma for 4th Defendant

A. Kamau holding brief for Motari for 5th Defendant

Osoro for 11th Interested Party and 14th and 15th Defendants in the Counter-Claim

Court assistant: Kajuju

