



**Shepherd Catering Limited v Nairobi Holdings Limited & 2 others (Environment & Land Case 359 of 2004) [2023] KEELC 19015 (KLR) (17 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19015 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 359 OF 2004**

**LN MBUGUA, J  
JULY 17, 2023**

**BETWEEN**

**SHEPHERD CATERING LIMITED ..... PLAINTIFF**

**AND**

**NAIROBI HOLDINGS LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**CHIEF LAND REGISTRAR OF TITLES ..... 2<sup>ND</sup> DEFENDANT**

**STEEL SON LIMITED ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. This ruling relates to the application made by counsel for plaintiff in the main suit to have the suit adjourned on the grounds that. They need to file a defence to the counterclaim, that; they need leave to appeal today's ruling and that they need to file an application for stay of proceedings.
2. I have perused the record. I find that in the court's ruling dated February 23, 2023, the court allowed the 1<sup>st</sup> defendant in the counterclaim to file their defence to the counterclaim and any documentary evidence by March 24, 2023. This order was not complied with.
3. Nevertheless, I have taken into consideration that in the said ruling of February 23, 2023, the court proceeded to entertain a pleading filed more than 17 years after the suit was filed. The same was dated May 15, 2020. What is good for the goose is good for the godder. Thus I will grant the 1<sup>st</sup> defendant in the counterclaim a final chance to file and serve their defence.
4. I decline to grant any orders on the issue of stay. I proceed to give the following orders:
  1. The 1<sup>st</sup> defendant (now only defendant) in the counterclaim is granted 14 days (by 1.8.2023) to file and serve their statement of defence to the Amended defence and counterclaim, witness statements and documentary evidence failure to which the matter shall proceed as an undefended counter claim.



2. The plaintiff in the counter claim is directed to file /serve any reply to defence by August 14, 2023, along with their witness statements, and documentary evidence.
3. Leave to appeal against the ruling delivered on July 17, 2023 is hereby granted.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:-

Angwenyi holding brief for Magere for Plaintiff

C. Kihara for 3<sup>rd</sup> Defendant

