



**Farah & another v Adan & another (Environment & Land Case E229 of 2022) [2023] KEELC 20936 (KLR) (23 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20936 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E229 OF 2022  
LN MBUGUA, J  
OCTOBER 23, 2023**

**BETWEEN**

**HUSSEIN AHMED FARAH ..... 1<sup>ST</sup> PLAINTIFF**

**HUSSEIN UNSHUR MOHAMMED ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**YUSUF ABDI ADAN ..... 1<sup>ST</sup> DEFENDANT**

**MOHAMMED ABDIKADIR ADAN ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. This ruling relates to the application for adjournment made by Mr. Lorot counsel for 1<sup>st</sup> defendant who avers that they were never served with any documents in this suit.
2. In rejoinder, Mr. Sagana for the plaintiff stated that the matter has come up severally for Pretrial directions 3.11.2022, 27.2.2023, 8.5.2023, 18.7.2023 and on 22.6.2023 when matter was due for hearing as well as on 27.9.2023. He argues that the application is made to derail the trial and amounts to professional misconduct.
3. In exercising its judicial authority, this court is guided by the provisions of Article 159 (2) (b) of the [Constitution](#) that justice shall not be delayed, as well as the provisions of Section 1 and 1A of the [Civil Procedure Act](#) on the overriding objectives set out there in.
4. I further make reference to the Practice Directions of 25.7.2014 Gazette Notice No. 5178 where Section 25-28 gives guidance on conduct of pretrial directions. I also make reference to the case of *Virginia Kathambi, Maingi v Nicholas Mwatika & 2 others* [2023] eKLR where the court stated that;

“Practice directions act like a reflux value to facilitate progress and avoid stagnation in resolution of disputes”.



5. In the case of *Moschion v Mwangi* (Environment & Land Case 350 of 2018) [2023] KEELC 17144 (KLR) (27 April 2023) (Ruling) this court proceeded to strike out several suits due to none compliance with court's direction.
6. The bottom line is that none compliance with court's pretrial directions has consequences.
7. In the case at hand, the court notes that on several occasions, pretrial directions were given by the court, with the final one being on 27.9.2023 when Mr. Lorot for the 1<sup>st</sup> defendant informed the court that they had no Trial Bundle. Another counsel who identified himself as Mr. Tirop stepped in for Mr. Lorot and informed the court about the predicament of their client in terms of compliance with court's directions. There was no mention of not being served with the Trial Bundle of the other advocates, yet the particulars of those bundles were given to the court.
8. The circumstances under which the court directed the matter to proceed today (23.10.2023) are well captured in a ruling delivered on that day of 27.9.2023 and I need not rehash the contents thereof.
9. In the circumstances, the application for adjournment made by Mr Lorot is hereby declined.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23RD DAY OF OCTOBER, 2023 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Sagana and Birif for Plaintiff

Mr. Lorot and Tirop for 1<sup>st</sup> Defendant

Muriithi for 2<sup>nd</sup> Defendant

Court Assistant: Eddel

