



REPUBLIC OF KENYA



KENYA LAW
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**Wangay Farmers Self Group 7 & 70 others v Adano & 8 others (Environment & Land
Petition E001 of 2023) [2023] KEELC 21925 (KLR) (27 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21925 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND PETITION E001 OF 2023
PM NJOROGE, J
NOVEMBER 27, 2023**

BETWEEN

WANGAY FARMERS SELF GROUP 7 & 70 OTHERS PETITIONER

AND

SALESA ADANO & 8 OTHERS RESPONDENT

RULING

1. This application is dated 16/10/2023 and seeks orders:
 1. That the Honourable Court do certify this application as urgent and hear the same on priority basis.
 2. That the Honourable Court be pleased to review and set aside the ruling delivered on October 9, 2023 and grant the applicant leave to respond to the application dated September 12, 2023.
 3. That the process server, who purportedly swore an affidavit to the effect that the applicant herein had been served with the pleadings in this Petition, be cited for perjury and punished appropriately.
 4. That the cost of this application be provided for.
2. The application is supported by the affidavit of Salesa Adano Abudo, the applicant and has the following grounds:
 1. That the applicant is cited as a respondent in the main petition and in the application dated September 12, 2023.
 2. That the application herein is also the plaintiff in Isiolo ELC Case No. E001 of 2022 which is at the Defence Hearing stage.



3. That the applicant has never been served either with the main petition or the application dated September 12, 2023, yet prejudicial orders were granted ex-parte.
 4. That the process server who purportedly swore an affidavit to the effect that the applicant had been duly served ought to be cited for perjury and punished appropriately for lying on oath.
 5. That it is therefore necessary that the ruling delivered on October 9, 2023 be set aside and the applicant be afforded leave to respond to the application dated 12th September, 2023.
3. The application was heard interparties. The applicant's claim was that he was not served with the impugned application which culminated in the delivery of this court's ruling dated 9/10/2023. The Respondent is categorical that the application was properly served upon the applicant.
4. It is quite clear that the substantive prayer in this application is that the applicant be allowed to respond to the impugned application. I am of the opinion that parties should be allowed to ventilate their issues in a court of law.
- Prayer 2 in the application is granted in the greater interest of justice and does not unduly prejudice the respondent.
5. Consequently, the following orders are hereby issued:
- a. Prayer 2 in the application is granted.
 - b. Prayer 3 in the application is not granted.
 - c. I issue no order as to costs.

DELIVERED IN OPEN COURT AT ISIOLO THIS 27TH DAY OF NOVEMBER, 2023.

HON. JUSTICE P.M NJOROGE

JUDGE

In presence of:

Salesio Adano for 1st Respondent

Other parties absent.

