



REPUBLIC OF KENYA



**Karanja (Suing Through Her Agent M/S Eunice Muthoni Warui) v Mugambi (Environment & Land Case 411 of 2010) [2023] KEELC 21674 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21674 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 411 OF 2010**

**JA MOGENI, J**

**NOVEMBER 23, 2023**

**BETWEEN**

**SUSAN WANJIKU KARANJA (SUING THROUGH HER AGENT M/S EUNICE MUTHONI WARUI) ..... PLAINTIFF**

**AND**

**LAWRENCE MUGAMBI ..... DEFENDANT**

**RULING**

1. The Applicant filed the Notice of Motion dated 26/05/23 under Order 12 rules 1 and 7 Order 51 rule 1 of the *Civil Procedure Rules* (2010), Section 3A of the *Civil Procedure Act* and on any other applicable provision of the Law seeking the following orders;
  1. Spent
  2. That the firm of Kamata & Company Advocates be granted leave to act for the defendant in this matter in place of Righa & Mburu Advocates as per the consent by the said two firms of advocates filed on the 23<sup>rd</sup> day of May 2023
  3. That there be an order of stay of execution of warrants of attachment of movable properties issued to High Class Auctioneers dated 12<sup>th</sup> April 2023 pending the hearing of the application hereof inter partes
  4. That this Honorable Court be pleased to set aside the orders and directions that were made by Honorabe I.N Barasa P.M (DR) on the 16<sup>th</sup> day of March 2023 together with any other subsequent order/s that may have been issued.
  5. That warrants of attachment of movable properties in execution of a decree issued to High Class Auctioneers dated 12<sup>th</sup> day of April 2023 be lifted.
  6. That the costs of this application be met by the plaintiff/ Respondent.



2. Which application is based on two grounds the gist of the grounds advanced being that the defendant was never served with the notice to show cause. That Notice to show Cause dated 6/02/2023 indicates that the defendant was required to appear in court on 19/03/2023 and this was a Sunday.
3. The application is supported by the supporting affidavit of one Lawrence Mugambi who is the defendant in this matter.
4. I have read the Application before me and may I point out that the Application is unopposed as the same was not contested by the Plaintiff/Respondent. Secondly, the Applicant had filed the same without undue delay and from the record I do observe that no Notice to Show Cause was served upon the plaintiff prior to the orders issued by I.N Barasa on 16/03/2023 together with any other subsequent orders.
5. In view of the above I will allow the application dated 26/05/2023 with no orders as to costs. Parties to go for PTC before the DR to prepare the suit for hearing on 07/12/2023.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23<sup>RD</sup> DAY OF NOVEMBER, 2023.**

**MOGENI J**

**JUDGE**

In the virtual presence of:

Ms. Sharon Njoki holding brief for Mr.Gatumuta for Plaintiff/Respondent

No appearance for the Defendant/Applicant

Caroline Sagina: Court Assistant

**MOGENI J**

**JUDGE**

