



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC CASE NO. 898 OF 2015**

**REGISTERED TRUSTEES OF**

**GOSPEL EVANGELISTIC CHURCH OF KENYA.....PLAINTIFF**

**VERSUS**

**ALEXANDER WAWERU MWANGI.....1<sup>st</sup> DEFENDANT**

**SAMUEL KAMAU.....2<sup>nd</sup> DEFENDANT**

**HANNAH WAMBUI NJOGU.....3<sup>rd</sup> DEFENDANT**

**ANTHONY IRUNGU.....4<sup>th</sup> DEFENDANT**

**PETER MUIRURI.....5<sup>th</sup> DEFENDANT**

**NICHOLAS KIAL.....6<sup>th</sup> DEFENDANT**

**JAMES KIVUVA.....7<sup>th</sup> DEFENDANT**

**PERIS WAIRIMU.....8<sup>th</sup> DEFENDANT**

**JULIUS NDUNGU.....9<sup>th</sup> DEFENDANT**

**PATRICK MAINA.....10<sup>th</sup> DEFENDANT**

**JOHN KIMUNGU.....11<sup>th</sup> DEFENDANT**

**(Being sued as officials of**

**BURUBURU RIVERSIDE SGH COMMITTEE**

**and on their own behalf)**

**NAIROBI CITY COUNTY.....12<sup>th</sup> DEFENDANT**

**RULING**

1. This suit has been pending in Court since 22<sup>nd</sup> September 2015 and has never proceeded for hearing, in the intervening period parties have filed several interlocutory applications which the Court has expanded a lot of time in dealing with the same. It was on this background that directions were issued on 29<sup>th</sup> November 2021 setting down the main suit for hearing on **24<sup>th</sup> February 2022**.

2. Subsequently thereafter, some applications were filed for determination by the Court. These included; the Notice of Motion dated 3<sup>rd</sup> December 2021, Notice of Preliminary Objection dated 8<sup>th</sup> December 2021 and Notice of Motion dated 19<sup>th</sup> January 2022.

3. The circumstances of this case where the dispute has been in the legal arena for over 6 years demand that this court imposes **Active Case Management** in order to achieve the overriding Objective set out under **Section 1A and 1B of the Civil Procedure Act** even if it appears to be rather late in the day to do so, in order to make progress towards the hearing and determination of the suit. Active Case Management is one of the best practices to combat case backlog and it is anchored on the courts ability to exercise Judicial control over the legal processes with a view to ensuring that the overriding objective is achieved.

4. Active Case management enhances processing efficiency, promotes court control of cases, and provides judicial officers with the tools that may be used to dispose off a case efficiently. These techniques reduce delays and case backlogs, and provide information to support the strategic allocation of time and resources - all of which encourage generally better services from courts.

5. Active Case management is also the effort by courts to handle cases in such a manner that they are resolved fairly and as promptly and economically as is reasonable in the circumstances of the case. The fairness part can be found within the notion of procedural justice while the promptness and economics part of the case management can be found within the notion of the efficiency of justice. Efficiency of justice implies that justice is done at reasonable costs to the parties and the court and within a reasonable time, that is without an abnormal delay. Procedural justice concerns the fairness, consistency and the transparency of the processes by which progress in a case is made.

6. Having reviewed the parties' applications and oral submissions by Counsels, I consider that it is in the interest of justice to have the main suit heard and determined expeditiously. I have considered that on several occasions, parties have equally been granted leave to file additional documents and evidence in support of their case and in preparation for trial.

7. Considering the active case management principles and owing to the fact that this suit had already been set down for hearing, this Court using its inherent powers hereby makes the following orders:

*i. All pending applications are hereby DISMISSED with no orders as to costs.*

*ii. The Notice of Preliminary Objection dated 8<sup>th</sup> December 2021 is hereby DISMISSED with no orders as to costs.*

*iii. This suit shall proceed for hearing on 24<sup>th</sup> February 2022 as earlier scheduled.*

*iv. Any new issues raised by the parties in their applications that have been dismissed, can be considered in their supplementary witness statements which parties are granted leave to file within seven (7) days from today.*

8. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 31<sup>ST</sup> DAY OF JANUARY 2022**

**E. K. WABWOTO**

**JUDGE**

**In the presence of: -**

**Ms. Mbirwe h/b for Mr. AGN Kamau for the Plaintiff.**

**Mr. Mwangi for the 1-11<sup>th</sup> Defendants.**

**N/A for the 12<sup>th</sup> Defendant.**

**Court Assistant; Caroline Nafuna.**