



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC SUIT NO. 482 OF 2011 (OS) (LEAD FILE)

(CONSOLIDATED WITH ELC NO. 119 OF 2014)

IN THE MATTER OF LAND PARCEL NUMBER LR 9509/34

AND

IN THE MATTER OF SECTIN 38 OF THE LIMITATION OF ACTIONS ACT

(CAP 22) LAWS OF KENYA

IN THE MATTER OF A VESTING ORDER

MATHENGE WANDERI.....APPLICANT

VERSUS

JOSEPH MACHARIA MUCHIRI.....1ST RESPONDENT

JANE WAIRIMU MACHARIA.....2ND RESPONDENT

CITY COUNCIL OF NAIROBI.....3RD RESPONDENT

RULING

The court record shows that this court has indulged the Plaintiff on several occasions when they sought adjournments when the matter came up for hearing. This matter has been adjourned a record six times. No facts have been established by the Plaintiff that would lead a reasonable and fair-minded person to conclude that this court has not been patient and/or indulged the plaintiff to this regard.

When the matter last came to court, the plaintiff applied for an adjournment and the court noted that it was the last. The Plaintiff's advocate informed the court that the Plaintiff would not be able to attend court as he has gone for an official meeting out of the country. Matters before the court precede any official meetings/functions. I am sure you remember the act of none other than the President of the Republic of Kenya H.E Uhuru Kenyatta of handing over the country to his deputy because he had to attend court at the Hague. Nothing can be more serious than this.

When the parties last appeared before my sister Judge on 22/09/2021, Mbugua J who inherited the file from Eboso J, all the parties were present and unanimously insisted that they needed a hearing date.

When this is the scenario that presents itself to the court, it becomes difficult to exercise discretion in favour of the applying party. The court declines to allow the adjournment noting that this is an old matter which now needs to proceed for hearing.

It is so ordered

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF JANUARY, 2022.

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MOGENI J

In the Presence of

.....for Plaintiff

.....for 1st Respondent

.....for 2nd Respondent

.....for 3rd Respondent