

IN THE HIGH COURT OF KENYA AT MERU

E & L CASE NO. 204 OF 2012

MARTIN GITONGA MUTHEE.....PLAINTIFF/APPLICANT

VERSUS

ISAIAH MURUNGI.....DEFENDANT/RESPONDENT

R U L I N G

An oral application was made by the defendant's counsel on 9.7.2014 that Interim Orders granted in respect of the plaintiff's application dated 2.11.2012 be vacated in accordance with Order 40 rule 7 of the Civil Procedure Rules. The defendant's advocate opined that it would be an abuse of the court process for a party to obtain orders and fail to comply with subsequent orders made by the court meant to facilitate the hearing of an application

In his application dated 20.11.2012, the plaintiff had sought injunctive orders against the defendant with respect to Land parcel Nos.1274, 3053 and 9641 Athiru Ruunjine Ndolele Adjudication Section. On 3.6.2013, the parties by consent agreed that the status quo obtaining as at that date be maintained. On 17.9.2013, the parties agreed to canvass the application by way of written submissions with each party having 21 days to file and exchange respective submissions. The defendant's case is that the plaintiff failed to do so and as a result he was unable to file his submissions which would be in response to the plaintiff's submissions.

I agree that the plaintiff has been indolent. I, however, note that there is a court order for maintenance of status quo which was a consent order. Discharging, varying or setting aside the extant order will disturb the status quo. In the interest of justice, the plaintiff/applicant will be given 30 days as a last chance to file and exchange his submissions. The defendant will file and exchange his submissions within 30 days after service of the plaintiff's submissions.

It is so ordered.

Delivered in Open Court at Meru this 21st day of July, 2014 in the presence of:

Cc. Daniel

Parties not present

P. M. NJORGE

JUDGE