



REPUBLIC OF KENYA



KENYA LAW
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**Karani v Yetu Sacco & 2 others (Environment and Land Appeal
126 of 2021) [2022] KEELC 2446 (KLR) (20 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2446 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND APPEAL 126 OF 2021**

**CK NZILI, J
JULY 20, 2022**

BETWEEN

GEORGE N. KARANI APPELLANT

AND

YETU SACCO 1ST RESPONDENT

GENSON MBURIA THAMBU 2ND RESPONDENT

VIEWLINE AUCTIONEERS 3RD RESPONDENT

RULING

1. What is before the court is an application dated February 8, 2022 seeking for setting aside the orders made on January 25, 2022 dismissing the application dated December 15, 2021 for want of prosecution and for the reinstatement of the same for hearing on merits.
2. The grounds in support as contained in the supporting affidavit sworn on 8.2.2022 by George Karani are that counsel handling the matter was held up before another court and by the time he logged in, the application had already been dismissed for want of prosecution. That there was inadvertent mistake of counsel; it is in the interest of justice the application be reinstated for there will be no prejudice to the respondent; mistake of counsel should not be visited upon the party and lastly if the application is not allowed the applicant shall suffer irreparable loss and damage.
3. The application was certified urgent on February 23, 2022 and an order made for the same to be served for inter-partes on 15.3.2022. When matter came up for inter-partes hearing but the applicant failed to attend. Similarly, there was no prove of service upon the respondent as ordered by the court.
4. Additionally, the court certified the application dated December 15, 2021 urgent and directed it be served for interpartes hearing on January 25, 2022.



5. There was neither service of the application nor appearance on the said date. In the present application, there is no mention if the application was ever served for the applicant to aver there would be no prejudice to the respondents if the orders sought are granted. It cannot be a coincidence that the applicant in a row is not attending court and or complying with its orders on service. The counsel who failed to attend court has not been mentioned nor has he or she sworn an affidavit explaining when he or she logged in and or attaching a cause list for the matter engaged in at the High Court. The alleged mistake of counsel has not been owned up at all.
6. In absence of the foregoing I see no merits in the application dated 8.2.2022. The same is dismissed with costs. The Deputy Registrar is directed to call for the lower court file for further directions.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 20TH DAY OF JULY, 2022

In presence of:

No appearance

HON. C.K. NZILI

ELC JUDGE

