



Gichuru & another (Suing as the registered officials of Wilson Mutumba Women Group) v Chief Land Registrar & another (Environment and Land Case Civil Suit E051 of 2022) [2022] KEELC 14439 (KLR) (27 October 2022) (Ruling)

Neutral citation: [2022] KEELC 14439 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT E051 OF 2022
LN MBUGUA, J
OCTOBER 27, 2022**

BETWEEN

**CECILIA WANJIRU GICHURU 1ST PLAINTIFF
FRIDAH KHAVERE 2ND PLAINTIFF
SUING AS THE REGISTERED OFFICIALS OF WILSON MUTUMBA WOMEN
GROUP**

AND

**CHIEF LAND REGISTRAR 1ST DEFENDANT
ATTORNEY GENERAL 2ND DEFENDANT**

RULING

1. This suit was filed *vide* a plaint dated February 2, 2022 contemporaneously with an application of an even date seeking orders of inhibition in respect of parcel LR No 209/10610 and or LR No 209/14582.
2. In response, the Attorney General filed a preliminary objection stating that the application is defective for offending the statutory provisions of section 4(1) of *Oaths and Statutory Declarations Act* and that the same is subjudice to Nairobi ELC Number 2028 of 2009. Thereafter, the plaintiff intimated to the court that they might withdraw the case, and they eventually did so on June 8, 2022.
3. The issue for determination before this court is on costs. Section 27 (1) of the *Civil Procedure Act* provides that;

“... the costs of and incidental to all suits shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid,....”



4. In the case of *Cecilia Karuru Ngayu vs Barclays Bank of Kenya & another (2016) eKLR*, the court stated that:

“To my mind, in determining the issue of costs, the court is entitled to look at *inter alia* (i) the conduct of the parties, (ii) the subject of litigation, (iii) the circumstances which led to the institution of the proceedings, (iv) the events which they were terminated, (vii) the relationship between the parties and (viii) the need to promote reconciliation amongst the disputing parties pursuant to article 159 (2) (c) of the *Constitution*.”

5. It is noted that from the inception of this suit, it was brought to the attention of the court that there were other related matters prompting the defendants to file a preliminary objection raising the issue of subjudice. The plaintiff did not act with haste to withdraw the suit and only moved the court on June 8, 2022. In such circumstances, I proceed to award the defendants half costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF OCTOBER, 2022 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Motari for the Respondent

Court assistant: Eddel

