



**Mukuha & another v County Government of Nakuru & 4 others (Environment & Land Case 551 of 2016) [2022] KEELC 14869 (KLR) (17 November 2022) (Ruling)**

Neutral citation: [2022] KEELC 14869 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 551 OF 2016  
FM NJOROGE, J  
NOVEMBER 17, 2022**

**BETWEEN**

**LINET WAIRIMU MUKUHA ..... 1<sup>ST</sup> PLAINTIFF**

**GRACE WAMBOI KAMAU ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**COUNTY GOVERNMENT OF NAKURU ..... 1<sup>ST</sup> DEFENDANT**

**PHARIS NDUNG’U CHEGE ..... 2<sup>ND</sup> DEFENDANT**

**GURSHARN SINGH ..... 3<sup>RD</sup> DEFENDANT**

**CHIEF LAND REGISTRAR, NAIVASHA LAND REGISTRY ... 4<sup>TH</sup> DEFENDANT**

**NAIVASHA INDUSTRIAL COMPLEX LTD ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. This case is scheduled for hearing today. Ms Magana has just filed the 5<sup>th</sup> defendant’s defence yesterday. Mr Waiganjo states that he has not even perused the said defence. Ms Gatu also intimates that she intends to file more items – witness statements. Much as this court may want to have this matter proceed today, it is clear that there were attempts at negotiations on the part of the parties to this case and Ms Gatu holds onto the perceived hope that those negotiations would yield a settlement as well as the ill health on the part of the 5<sup>th</sup> defendant’s director as the ostensible reasons for not filing a defence and the witness statements on time. I have considered the opinions of the parties basically, that the matter can still be negotiated to a complete settlement and the admitted presence of a surveyor’s report in the court record, and I am of the view that the parties ought to be granted one more chance at negotiations, and also at perfecting the state of their documentation in the file record, especially the 5<sup>th</sup> defendant.



2. I find that it would be improper in the circumstances outlined by counsel for the parties to proceed while the 5<sup>th</sup> defendant's witness statements are not on record and the plaintiffs do not know what its witness will finally say and while Mr Waiganjo has not even perused the defence which is already placed before this court.
3. However, I am not for a single moment persuaded that the negotiations undertaken by the parties were a sufficient explanation for the delayed filing of the defence and witness statements. There are no documents to support the statement that the illness of the 5<sup>th</sup> defendant's director was a sufficient cause therefore, or that that was the only director who could issue instructions.
4. In the circumstances, I order that the defence filed by the 5<sup>th</sup> defendant on November 16, 2022 be and is hereby deemed as properly filed and served and that the 5<sup>th</sup> defendant's witness statements shall be filed and served on all parties within 14 days of this order. I also condemn the 5<sup>th</sup> defendant specifically to bear today's costs of the plaintiff's counsel and four (4) witnesses before the next hearing date which I assess at Kshs 25,000/=.
5. This hearing is now adjourned. Meanwhile parties shall continue with negotiations and be ready without excuse for hearing on March 1, 2023 if the said negotiations fail. The Attorney General shall be served by Mr Waiganjo.

**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 17<sup>TH</sup> DAY OF NOVEMBER, 2022.**



**MWANGI NJOROGE**  
**JUDGE, ELC, NAKURU**

