



Helu v National Social Security Fund (Environment and Land Case Civil Suit 1285 of 2014) [2022] KEELC 15626 (KLR) (8 December 2022) (Ruling)

Neutral citation: [2022] KEELC 15626 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE CIVIL SUIT 1285 OF 2014
LN MBUGUA, J
DECEMBER 8, 2022**

BETWEEN

SAMUEL OLUOCH HELU PLAINTIFF

AND

NATIONAL SOCIAL SECURITY FUND DEFENDANT

RULING

1. Before me is a notice of motion application dated February 25, 2022 where the plaintiff applicant seeks the following orders:
 - a. Spent.
 - b. That this honorable court be pleased to reinstate the suit that stands dismissed by virtue of the orders issued on July 15, 2021 and all consequential orders thereto.
 - c. That pending hearing and determination of this application, this honorable court does grant a stay of execution of the orders issued on February 10, 2020 dismissing this suit with cost to the defendant.
 - d. That this honorable court be pleased to review and/or extend it's orders of July 15, 2021 directing the plaintiff/applicant to pay throw away costs within 45 days.
 - e. That pending inter-parties hearing and determination of this application, this honorable court be pleased to stay and or discharge the orders issued on February 16, 2022 and all consequential orders thereto.
 - f. That the costs be in the main cause.



2. The application is premised on the grounds on the face of the application and on a supporting affidavit of one Samson Alosa, counsel for the plaintiff. The issues raised therein are more or less similar to those raised in the application dated September 29, 2021.
3. The defendant has opposed the application vide the replying affidavit of its corporation secretary, one Caroline Rakama – Odera. Again, by and large, the response is similar to the one made in the application dated September 29, 2021.
4. I have considered all the issues raised herein including the rival submissions. I find that the litigation history of the matter is well captured in the ruling of this court delivered on February 16, 2022 particularly at paragraph 9 thereof. What I discern is that the applicant is attempting to have a second bite of the cherry by re-litigating all over again on matters of reinstatement of the suit. This is certainly not tenable.
5. Having pronounced itself in the ruling of February 16, 2022, this court cannot revisit the issues which made the applicant fail to comply with the orders of July 15, 2021. The net effect is that the application dated February 25, 2022 is found to have no merits and the same is hereby dismissed with costs to the respondent.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 8TH DAY OF DECEMBER, 2022
THROUGH MICROSOFT TEAMS.**

LUCY N MBUGUA

JUDGE

In the presence of:-

Alosa for Plaintiff/Applicant

Kichwer holding brief for Mr Odoyo for Defendant

Court assistant: Eddel/Vanilla

