



**Odula v Osore (Environment & Land Case 30 of 2015)
[2022] KEELC 15228 (KLR) (8 December 2022) (Ruling)**

Neutral citation: [2022] KEELC 15228 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT SIAYA
ENVIRONMENT & LAND CASE 30 OF 2015
AY KOROSS, J
DECEMBER 8, 2022
ORIGINALLY KISUMU ELC NO 632 OF 2015**

BETWEEN

JOHN OKUMU ODULA PLAINTIFF

AND

JOHN OWUOR OSORE DEFENDANT

RULING

1. This court concluded with the hearing of this suit on October 3, 2022. The defendant who had complied with order 11 of the *Civil Procedure Rules* did not attend court and his case was closed. As directed by the court, the plaintiff's counsel M/s Nabifo filed her written submissions and judgment was reserved for December 8, 2022.
2. As the court was penning down its judgment, and it came across a ruling that was rendered by S.M Kibunja J on July 31, 2019. This ruling has led to the unfortunate turn of events where this court has to render a ruling instead of a judgment.
3. In this ruling, the learned judge issued a conditional reinstatement of the plaintiff's suit and issued the following orders;
 - a. That the order dismissing the suit for want of prosecution of March 20, 2017 be and is hereby set aside, the suit reinstated, on condition that the plaintiff pays the defendant throw away costs assessed at Kshs 20,000/- only in 30 days.
 - b. That should the plaintiff fail to comply with the condition in (a) above, the setting aside and reinstatement of suit order therein shall lapse automatically.



4. From the court record, there is no evidence that the plaintiff ever complied with these orders and there is a possibility that his suit was long dismissed and there is nothing for this court determine. Court orders are never issued in vain and it is paramount for both parties to address me on this issue.
5. In the circumstances, and, in exercise of its powers under sections 1A, 1B and 3A of the Civil Procedure Act, this court issues the following disposal orders–
 - a. That judgment in this matter be and is hereby arrested pending further directions of this court.
 - b. That the parties do address the court on whether there was compliance with the court orders issued on July 31, 2019.
 - c. That the matter be mentioned for directions on January 31, 2023.
 - d. That there shall be no orders as to costs.

It is so ordered.

DELIVERED AND DATED AT SIAYA THIS 8TH DAY OF DECEMBER 2022.

HON. A. Y. KOROSS

JUDGE

8/12/2022

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform in the Presence of:

In the Presence of:

N/A for the plaintiff

N/A for the defendant

Court assistant: Ishmael Orwa

