



**Nason (Suing as the Administrator of the Estate of Nahashon Mukiana – Deceased) v M’Ikwinga  
(Environment & Land Case 32 of 2012) [2025] KEELC 1132 (KLR) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1132 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT & LAND CASE 32 OF 2012**

**BM EBOSO, J  
MARCH 5, 2025**

**BETWEEN**

**HARUN NTORURU NASON (SUING AS THE ADMINISTRATOR OF THE  
ESTATE OF NAHASHON MUKIAMA – DECEASED) ..... PLAINTIFF**

**AND**

**M’MWENDA M’NABEA M’IKWINGA ..... DEFENDANT**

**RULING**

1. Through a notice of motion dated 4/2/2025, the defendant invited this court to:
  - (i) lift, discharge and/or vacate the inhibition order issued in this suit on 16/10/2012 in respect of land parcel number Njia Cia Mwendwa/715; and
  - (ii) dismiss the plaintiff’s suit for want of prosecution, with costs to the defendant.The said notice of motion is the subject of this ruling. The motion is unopposed.
2. The application was anchored on the grounds outlined on the face of the motion and in the applicant’s affidavit dated 4/2/2025. It was canvassed in the virtual court today through brief oral submissions.
3. The case of the applicant is that, on 16/10/2012, the court issued an order of inhibition prohibiting all dealings in the land register relating to land parcel number Njia Cia Mwendwa/715 [the suit land] until this suit is heard and determined. The court also issued interlocutory injunctive orders. He adds that, following the issuance of the inhibition order and the interlocutory injunctive orders, the plaintiff has not taken any step to prosecute the suit for over 12 years. He contends that, through his inaction, the plaintiff has demonstrated that he has lost interest in this suit and therefore there is no justifiable grounds for the continued subsistence of the inhibition on the suit land. He invites the court, in the interest of justice and fairness, to invoke the overriding objective of the [Civil Procedure Rules](#) and exercise discretion to bring these proceedings to an end.



4. The court has considered the uncontested application and has read the court record. The applicant filed an affidavit of service sworn by Susan Mbumbunya, the applicant's advocate. The affidavit indicates that the order dated 7/2/2025 and the motion dated 4/2/2025 were served on the plaintiff's advocates, Haron Gitonga & Co Advocates, through email on 7/2/2025. The said affidavit informed the exparte hearing of the motion.
5. An evaluation of the court record reveals that the plaintiff instituted this suit on 25/6/2012 through a plaint dated 25/6/2012. Together with the plaint, the plaintiff filed a notice of motion dated 25/6/2012 seeking interlocutory orders of inhibition and injunction in relation to the suit land. The court disposed the motion through a ruling dated 16/10/2012 in which it issued the following verbatim interlocutory orders:
  1. An order of inhibition be and is hereby granted restraining all dealings with Land Parcel No. Njia Cia Mwendwa/715 pending the hearing and determination of this suit or until further orders of this court.
  2. An order of temporary injunction be and is hereby granted restraining the defendant by himself or anybody else from causing the alteration of the survey map of land parcel No. Njia Cia Mwendwa 715 pending the hearing and determination of this suit or until further orders of this court.
  3. An order of temporary injunction be and is hereby granted restraining the defendant by himself, his agent or servant from interfering with the plaintiff's occupation and user of the portion of the suit land measuring 0.90 acres which the plaintiff and his siblings have been and still are in occupation and user pending the hearing and determination of this suit or until further orders of this court.
  4. Costs of this application to the applicant.
6. The court record further reveals that this case was last before court (P M Njoroge JJ) on 17/6/2015 when counsel for the plaintiff informed the court that the plaintiff's witness number 3 had passed on and his witness number 4 had shied away from signing his witness statement. From 17/6/2015 to February, 2025 when the present application was filed, no step was taken in terms of prosecuting the suit. Indeed, no proceedings were taken in the file, not even date – fixing in the Court Registry. This is a period of close to 10 years.
7. Given the above circumstances, and given the fact that the application is not contested, the court is satisfied that a proper case has been made for vacating the interlocutory orders of 16/10/2012 and for dismissing the suit on the ground of want of prosecution. The result is that the application dated 4/2/2025 is allowed in terms of prayers 2 and 3.

**DATED, SIGNED AND DELIVERED AT MERU THIS 5<sup>TH</sup> DAY OF MARCH 2025.**

**B M EBOSO [MR]**

**JUDGE**

In the Presence of

Ms Mugo holding brief for Ms Mbumbunya for the Defendant/Applicant

Mr Tupet – Court Assistant

