



REPUBLIC OF KENYA



Nongoboi v Kilingat & 3 others (Environment and Land Appeal E010 of 2024) [2025] KEELC 3530 (KLR) (5 May 2025) (Ruling)

Neutral citation: [2025] KEELC 3530 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS
ENVIRONMENT AND LAND APPEAL E010 OF 2024**

MN MWANYALE, J

MAY 5, 2025

BETWEEN

JOHN MEKUYIAN NONGOBOI APPELLANT

AND

JOSEPH KILINGAT 1ST RESPONDENT

LAND REGISTRAR TRANSMARA WEST SUB-COUNTY .. 2ND RESPONDENT

**LAND ADJUDICATION AND SETTLEMENT OFFICER NKARARO 3RD
RESPONDENT**

ATTORNEY GENERAL 4TH RESPONDENT

*(Appeal against the decision of Hon. C.W Waswa delivered on
22nd day of March 2024 in Kilgoris SPMC No. ELC No. 40/2021.)*

RULING

1. On 5th of April 2024, the Appellant herein filed a Memorandum of Appeal against the decision of Hon. C.W Waswa delivered on 22nd day of March 2024 in *Kilgoris SPMC No. ELC No. 40/2021*.
2. No steps were taken to file the Record of Appeal and/or prosecute the Appeal prompting the court to issue a Notice to show cause on 30th of January 2025, which Notice to Show Cause was initially listed for 01.04.2025, for hearing.
3. On the said 01.04.2025, Ms. Kithinji advocate held brief for Ms. Mireri for the Appellant and sought for time to file the Replying Affidavit while Mr. Seriani sought for the dismissal of the Appeal.
4. The court allowed the Appellant's Counsel to file an Affidavit showing cause and the matter slated for 03.04.2025, and on the appointed dated, an affidavit showing cause was filed by the Appellant to



which the Respondent sought and was granted time to respond; and matter reserved for Ruling on 05.05.2025.

5. Upon consideration of the affidavit showing cause deponed by Ms. Mireri Esq. Advocate who deposes that upon filing of the memorandum of Appeal, they also sought to be supplied with proceedings and judgment but were never supplied despite personal follow up at the registry.
6. Due to the above reasons, they have been unable to file the record of Appeal but the Appellant is ready and willing to prosecute the Appeal.
7. The Respondent on his part deponed that there has been an inordinate delay in prosecuting the Appeal, but left it to the court.
8. The annexures filed in the Replying affidavit show a letter ostensibly dated 5th of April 2024, but received in court on 17th April 2024 as the only letter for the proceedings, there is no other attempt at a reminder.
9. It is the court's duty to avail typed proceedings to the parties once they pay for them. In the instance case, the Appellant paid for the proceedings but failed to follow up, save for one letter.
10. Having discharged that obligation it would be punitive to dismiss the Appeal hence the court directs that the proceedings in respect of *Kilgoris CMCC No. E040/2021*, Between Joseph Kilingat and John Mekuyiani Ndongoboi and 3 Others be typed and supplied to the parties upon payment of requisite fees within 60 days from today. The Appellant to file record of Appeal within 75 days from today, failure to which the Appeal shall stand dismissed.
11. Matter to be mentioned for directions on 30th July 2025.

DATED AT KILGORIS THIS 5TH DAY OF MAY, 2025.

HON. M.N MWANYALE

JUDGE

In the presence of

CA – Emmanuel/Sylvia

Mr. Seriani for Respondent

Ms. Mireri for the Appellant

