



REPUBLIC OF KENYA



**Monda & another v Saire & 3 others (Environment and Land Case  
674 of 2017) [2025] KEELC 3988 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3988 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND CASE 674 OF 2017**

**MD MWANGI, J**

**MAY 22, 2025**

**BETWEEN**

**PHERUS ARORI MONDA ..... 1<sup>ST</sup> PLAINTIFF**

**AGNES NASIONOI RIANO ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**KISHIL OLE NKARE SAIRE ..... 1<sup>ST</sup> DEFENDANT**

**JULES INVESTMENT LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**ABEL MUNGATHIA MURIUNGI ..... 3<sup>RD</sup> DEFENDANT**

**KIENDE LUCY ANN MUNGATHIA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This matter came for the 1<sup>st</sup> time before me on 13<sup>th</sup> February 2025. On that date, Mr. Githuka, advocate for the Decree-holders informed the court that the matter was listed for mention for purposes of taking directions on an application dated 14<sup>th</sup> March 2024. Mr. Getanda, advocate for the 3<sup>rd</sup> Interested Party (in the application dated 14<sup>th</sup> March 2024 confirmed the position).
2. The court proceeded to give directions to the effect that parties file their respective submissions (in respect of that application dated 14<sup>th</sup> March 2024) in the next 14 days. The submissions were to be highlighted on 17<sup>th</sup> March 2025. The court directed service of the directions issued on that day as well as a hearing notice upon the Applicants.
3. On 17<sup>th</sup> March 2025, when the matter was supposed to come for highlighting of submissions, in respect to application dated 14<sup>th</sup> March 2024, Mr. Githuka, advocate for the Plaintiffs/Decree-holders informed the court that he had discovered that the alleged notice of motion had never been filed in the first place as directed by the court. In rejoinder, Mr. Muli, advocate for the Applicants (in the



application dated 14<sup>th</sup> March 2024) expressed shock. He averred that his application had been filed and duly stamped and that directions had been taken thereafter.

4. On 1<sup>st</sup> April 2025, when the matter was once again being mentioned for purposes of confirming when the application had indeed been filed and for further directions, Mr. Muli, advocate for the Applicants informed the court that his application had been duly stamped on 15<sup>th</sup> March 2024. He stated that it must have been physically filed.
5. Mr. Githuka, advocate for the Plaintiffs/Decree-holder was categorical that since the year 2023, filing of documents in this court was exclusively electronic; through the e-portal. There was no physical filing whatsoever. He further told the court that leave to file the substantive application was granted way back and the application was to be filed within 21 days. Since that was not done, then there was no proper application for the court to determine.
6. At that juncture, Mr. Muli sought extension of time to file the application out of time. The oral application was vehemently opposed by Mr. Githuka, advocate for the Plaintiffs/Decree-holders.
7. This ruling is in respect of that oral application. The issue for determination is whether extension of time should be granted to the Applicants to file the application out to time.

#### **Analysis and determination.**

8. I have taken my time to peruse this file. I do note that judgment was delivered in this case way back on 24<sup>th</sup> April 2020 in favour of the Plaintiffs when the court directed the rectification of the registers of all those parcels of land which were resultant subdivisions of Kjd/Kaputiei-North 22232 and 22233 to reinstate the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs as the proprietors respectively.
9. On 15<sup>th</sup> November 2023, Mr. Tito Muli Munyoro, advocate, filed an application under certificate of urgency by way of a chamber summons dated 24<sup>th</sup> October 2023 on behalf of the Applicants, Jules Investment Limited, Kukuya Kishil Nyaera and Gloria Sempewuan Kishil, to apply for an order of committal to prison against the Plaintiffs herein and the Land Registrar –Kajiado, and or attachment and sequestration of their property for disobedience of a court order granted on 30<sup>th</sup> July 2020 in this suit amongst other orders listed as (3), (4), and (5).
10. On 27<sup>th</sup> February 2024, my predecessor, Gicheru J allowed the chamber summons application in terms of prayer 2 only; meaning that the Applicants were granted leave to file and serve the application; but within 21 days.
11. The Applicants' advocate purports to have filed the application on 14<sup>th</sup> March 2024, but has not provided any evidence of such filing. As the advocate for the Plaintiffs/Decree-holder, Mr. Githuka, rightly pointed out, filing of documents since March 2023 in this court has been electronic.
12. Mysteriously, the application dated 14<sup>th</sup> March 2024 was uploaded on the e-portal on 7<sup>th</sup> March 2025. It was paid for on the same date by Mr. Muli, advocate for the Applicants.
13. For all intents and purposes, the application dated 14<sup>th</sup> March 2024 was filed in court on 7<sup>th</sup> March 2025. Th advocate for the Applicants never brought this fact to the attention of the court on the two occasions when this matter was mentioned for purposes of confirming whether the application had been filed as alleged by the advocate. Advocates, as officers of the court must never forget that they have the responsibility to assist the court in furthering the overriding objective. What leave was the advocate seeking while he had already filed the application on 7<sup>th</sup> March 2025? He was merely taking the court up the garden path.



14. That said, the application dated March 14, 2024 is hereby struck out with costs to the Plaintiffs/Decree-holders having been filed out of time contrary to the directions of the court of February 27, 2024.

It is so ordered.

**DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 22<sup>ND</sup> DAY OF MAY 2025.**

**M.D. MWANGI**

**JUDGE**

