



**Soi v Ngetich & another (Civil Suit E021 of 2021)
[2024] KEELC 1671 (KLR) (4 April 2024) (Ruling)**

Neutral citation: [2024] KEELC 1671 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI
CIVIL SUIT E021 OF 2021
MC OUNDO, J
APRIL 4, 2024**

BETWEEN

PRISCILLAR CHEPKEMOI SOI PLAINTIFF

AND

PAUL KIPNGENO NGETICH 1ST DEFENDANT

**KERICHO COUNTY DEPARTMENT OF LANDS AND PHYSICAL
PLANNING 2ND DEFENDANT**

RULING

1. I have anxiously considered the Notice of Motion dated the 2nd October 2023. My first impression was that it had been drawn and filed by the Applicant, a lay person. However upon further perusal, and to my horror, it emerged that the same was drawn and filed by Counsel to which I wish to point out as follows;
2. Although it is trite that the court is bound to do substantive justice untrammelled by technicalities of procedure and further that its overriding objective in dispensing justice is to ensure expeditious, fair, and just proportionate and economic disposal of cases, however I find the current application being an example of extreme carelessness on the part of Counsel.
3. I say so because the strict application of the rules implore upon an Applicant to distantly state the provision of the law under which the Application is brought and if for example as in the present case, the Applicant seeks to stay execution of an order, the said order be distinctly stated.
4. To put the matter in perspective, I wish to produce in verbatim the application as framed:
 “Notice of motion
 1. That the application be certified urgent and it be heard ex-parte in the first instance.



2. That stay of execution orders be granted pending the hearing and determination of this Application.
3. That the Respondent be at liberty to apply to the Honorable Court for such further directions and Orders necessary for purposes of meeting the ends of justice.

Which Application is based on the Supporting Affidavit of the Plaintiff on the following grounds.....:”

5. Although the provisions of Order 51 Rule 10(2) of the *Civil Procedure Rules* provide that no application shall be defeated on a technicality or for want of form that does not affect the substance of the application, yet in the instance case, I have asked myself the question as to exactly what orders have been sought by the Applicant and find no substance disclosed in the application herein.
6. Parties shall be held accountable for their pleadings as legal business ought to be conducted efficiently. We can no longer afford to show the same indulgence towards the negligent conduct of litigation as was perhaps possible in the leisured age. Sometimes there will be cases like this one, in which justice will better be served by allowing the consequences of the negligence of the Counsel to fall on their own heads. (see Lord Griffiths in his speech in the case of *Ketteman v Hansel Properties Limited* [1988] 1 ALL E.R. 38 AT Page 62)
7. Having noted the absence of the provisions under which the Motion is brought and the orders sought to be stayed therein, and keeping in mind that courts exists for the purpose of deciding the rights of the parties, I find the Application before me dated the 2nd October 2023 as being incompetent and fatally defective and proceed to strike it out with costs.

DATED AND DELIVERED VIA TEAMS MICROSOFT AT NAIVASHA THIS 4TH DAY OF APRIL 2024.

M.C. OUNDO

ENVIRONMENT & LAND – JUDGE

