



**Ali v Dika & 2 others (Environment & Land Case 002 of 2022)
[2024] KEELC 5008 (KLR) (1 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5008 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 002 OF 2022**

PM NJOROGE, J

JULY 1, 2024

BETWEEN

FATUMA MOHAMMED ALI PLAINTIFF

AND

BORU DIKA 1ST DEFENDANT

HENRY KIMATHI 2ND DEFENDANT

ADAM GITONGA NYAGAH 3RD DEFENDANT

RULING

1. This application is dated 22/5/2024 and seeks orders that:
 1. This application be certified urgent and be heard without delay as the main suit is scheduled for further hearing on 27th May, 2024.
 2. This Honourable Court be pleased to review and set aside the orders of 4th December, 2023 as there is an error on the face of the record and there are sufficient reasons, to review the said orders to meet the ends of Justice.
 3. This Honourable Court do make such further or better orders as will meet the ends of justice.
 4. Costs of this application be in the cause.
2. The application has the following grounds:
 1. The Applicant represents the estate of his deceased father the 3rd defendant herein.
 2. The applicant obtained the letters of Administration to his 3rd defendant's estate on 8th day of July, 2019.



3. On the 14th day of October, 2019 this Honourable Court granted unlimited leave to the applicant to file further statements and documents.
4. Such statements and documents were filed on 23/1/2020, 2/11/2021 & 3/11/2021.
3. This application came up for directions on 1/7/2024. The applicant and his advocate were not in court. The advocate for the 2nd and 3rd defendants asked the court to dismiss the application for non-prosecution.
4. I find that the applicant and his advocate were aware of this date and indeed served it upon the other parties. Therefore, there was no reason for their absence as none was proffered.
5. In the circumstances, this application is dismissed.
6. Costs shall follow the event and are awarded to the plaintiff and to the 2nd defendant whose advocates are present in court today.
7. Parties will come to court for hearing on 30/9/2024 and the plaintiff's advocate is directed to serve this hearing date upon the 3rd defendants advocate.

DELIVERED IN OPEN COURT AT ISIOLO THIS 1ST DAY OF JULY, 2024 IN THE PRESENCE OF:

Court Assistant: Balozi/Rahma

Julius Ondieki for the plaintiff

Tyson Mwenda and Mwirigi Mbaya for the 2nd defendant.

HON. JUSTICE P.M NJOROGE

JUDGE

