



**Herbert J. Ashiruma t/a Ashiruma & Co. Advocates v National Social Security Fund Board of Trustees & 6 others (Environment & Land Case 1211 of 2013) [2024] KEELC 5016 (KLR) (1 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5016 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 1211 OF 2013**

**JA MOGENI, J  
JULY 1, 2024**

**BETWEEN**

**HERBERT J. ASHIRUMA T/A ASHIRUMA & CO. ADVOCATES ..... PLAINTIFF**

**AND**

**NATIONAL SOCIAL SECURITY FUND BOARD OF TRUSTEES .... 1<sup>ST</sup>  
DEFENDANT**

**JOHN M. MBURU ..... 2<sup>ND</sup> DEFENDANT**

**WILFREDA MWAMBAO ..... 3<sup>RD</sup> DEFENDANT**

**N.W REALITE LTD ..... 4<sup>TH</sup> DEFENDANT**

**PETER SERGON ..... 5<sup>TH</sup> DEFENDANT**

**NAHASHON KURIA ..... 6<sup>TH</sup> DEFENDANT**

**CYRUS NYELA ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

1. The 2<sup>nd</sup> defendant has made an application for adjournment the reason being that he is feeling unwell and his daughter is also unwell. The application is opposed by the counsel for the Plaintiff who has alleged that Mr. Mburu always comes to court even whilst unwell to seek an adjournment himself. The court is sympathetic to Mr. Mburu and indeed notes that on occasions when he has sought an adjournment on grounds of illness he has attended court himself. On this one occasion he is absent from court. In the circumstances the court is obliged to accommodate him since the court has seen his effort in the past. Section 3A of the *Civil Procedure Act* has bestowed upon this court wide discretion in ensuring that justice is dispensed effectively, efficiently and in a timely manner. I do note that this is a 2013 matter and that the defence case has dragged on for long.



2. Mr. Itemere on his part seems to indicate that his witness is running late and will only be able to attend court at 1. 30p.m which is one and a half hours since the time that was allocated for hearing. This is to say the least absurd and ridiculous. Taking the Honourable court for granted. The court frowns upon this despicable show of lack of respect for court processes.
3. Anyway on the account of Mr. Mburu I will reschedule this hearing to 13/11/2024. I would like the parties to note that this is the Final hearing date which will mean the case will close on that date. Any party who will not attend court should note that the case will close and no further action shall be taken except issuance of a judgement date shall be made as the closing statement on 13/11/2024. The defendant to serve the date upon Mr. John Mburu.

**HON MOGENI J.**

**JUDGE**

**01/07/2024**

