



**Mwangi v Kibugu & another (Environment & Land Case 303 of 2018)  
[2024] KEELC 7001 (KLR) (16 September 2024) (Ruling)**

Neutral citation: [2024] KEELC 7001 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 303 OF 2018  
A OMBWAYO, J  
SEPTEMBER 16, 2024**

**BETWEEN**

**SIMON MUIGAI MWANGI ..... PLAINTIFF**

**AND**

**SOLOMON MURIITHI KIBUGU ..... 1<sup>ST</sup> DEFENDANT**

**JAMES KIBUGU KIONI ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. The plaintiff seeks orders that the Order or the Court made on the 9th April, 2024, dismissing the Plaintiff's suit and all other consequential Orders be. Reviewed and/or set aside and that upon granting prayer (1) above the suit herein be reinstated for hearing on merit. That the costs of this application be provided for.
2. The application is made on grounds that on 9th April 2024 Ms. Teresia Muthua Advocate on record for the Plaintiff herein logged in at about-8.30 o'clock but when the matter was called out at: about 8.40a.m there was a brief power interruption in the gadget counsel was using and was unable to address the court. As a consequence thereof the matter was marked as dismissed for non- attendance.
3. That counsel who had had arrived from Nairobi for, the hearing of the matter, rushed to open court where she found the Court Assistant and upon inquiry, it was confirmed that the matter had been dismissed for non-attendance as a consequence thereof.
4. It is in the interest of justice that the Plaintiff be permitted to canvass his case and that the order marking the dismissed of the case be reviewed and/or set aside.
5. M/s Teresa Mutua, advocate for applicant reiterates the grounds in the application that the matter herein was called at 8.40 am when there was a brief interruption in her gadget and therefore she was unable to address the court. The plaintiff filed a supplementary affidavit whose gist is that he arrived



at the Environment and Land courtroom NO 1 at 8.am and waited for the matter to start. He saw his advocate on the T.N Muthua logged in but when the matter was called out he could not hear her voice and that apparently, her line dropped and that later he was informed that the case had been dismissed. The application is not opposed. I do find that the applicant has satisfied the court that failure to attend by the plaintiff's counsel was caused by hardship or in-advertence due to the interruption that occurred in the plaintiff's counsel's gadget. The upshot of the above is that the application is allowed. Hearing of the main suit on 25th November 2024. The plaintiff to serve.

**RULING DATED SIGNED AND DELIVERED ELECTRONICALLY THIS 16TH DAY OF SEPTEMBER 2024.**

**SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO**

**THE JUDICIARY OF KENYA. NAKURU ENVIRONMENT AND LAND COURT  
ENVIRONMENT AND LAND COURT**

**DATE: 2024-10-17 14:51:05**

