



**Mwirigi & 2 others v Peter (Environment and Land Appeal
016 of 2021) [2024] KEELC 6507 (KLR) (8 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6507 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT AND LAND APPEAL 016 OF 2021
PM NJOROGE, J
OCTOBER 8, 2024**

BETWEEN

SILAS MWIRIGI 1ST APPELLANT

COLLETA MUKAMI 2ND APPELLANT

CHRISTOPHER MIRITI 3RD APPELLANT

AND

STANLEY KIMATHI PETER RESPONDENT

RULING

1. This application is dated 14th March, 2024 and seeks orders;
 1. That this application be considered and heard first before taxation of the Respondent's Bill of costs dated 30th October, 2023.
 2. The taxation of the Respondent's costs be stayed to await determination of Isiolo Environment and Land Court ELC Petition No. 5 of 2023.
 3. Other direction/orders as may be prudent.
2. The application is supported by the undated affidavit of Christopher Miriti, the applicant and has the following grounds;
 1. That there is a pending petition.
 2. That the matters in the pending petition relates (sic) to this Appeal
 3. That the parties in the said petition are also parties in this Appeal and consequently the respondents bill of cost (sic).
 4. That it is in the interest of justice that the said Bill of Costs be set aside.



3. On 7/9/2024, advocate Mokuia asked the court to dismiss the application on 3 main grounds;
 - a. Since filing the application 6 months ago, the applicant has not prosecuted the application.
 - b. The court is functus officio.
 - c. The applicant never appealed the court's judgment.
4. I have considered the application and the oral submissions made by the respondent's Advocate. I agree that the appeal in this matter was concluded on 17th July, 2023 one and half years ago. By dint of this fact, I find that this court is functus officio.

I also note that the applicant has never appealed against this court's judgment.
5. In the circumstances, I find that the application is merely aimed at obviating the impending taxation of costs. I, therefore, issue the following orders;
 - a. This application is hereby dismissed.
 - b. Costs shall follow the event and are awarded to the respondent.

DELIVERED IN OPEN COURT AT ISIOLO THIS 8TH DAY OF OCTOBER, 2024 IN THE PRESENCE OF:

Court assistant: Balazi/Rahma

Mokuia for the Respondent

HON. JUSTICE P.M NJOROGE

JUDGE

