



**Ogada v Ogada & 41 others (Environment & Land Case  
100 of 2018) [2023] KEELC 651 (KLR) (9 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 651 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 100 OF 2018  
FM NJOROGE, J  
FEBRUARY 9, 2023**

**BETWEEN**

**PAUL OGANGA OGADA ..... PLAINTIFF**

**AND**

**VICTORIA WANGUI OGANGA OGADA & 41 OTHERS ..... DEFENDANT**

**RULING**

1. This is a case filed in the year 2018 and hearing has not kicked off. This morning when the matter was called out by way of Microsoft Teams, Mr Githui and Ms Odande appeared for the plaintiff and the 1<sup>st</sup> defendant respectively. Mr Githui gave indication of his inability to proceed with the hearing briefly on the basis that he had not met his client for a while and intimated that he would want an adjournment to which Ms Odande was not opposed.
2. However, this court, noting that the case is beyond 3 years in age and that hearing has not commenced, and aware of the push to clear the corridors of justice of case backlogs ordered by this matter be heard today at 10:45 am in open court.
3. At 11:20 am this court sat but the only counsel present was Mr Githui who in the absence of the others pleaded for time to contact his client to establish his actual stance regarding the prosecution of this suit.
4. Mr Githui also repeated his intimation made earlier this morning that the relationship between his client and the 1<sup>st</sup> defendant who also happens to be his daughter, had ‘thawed’ without giving any further particulars of that rapprochement.
5. This court, has considered that there are aspects of this dispute that touch on the sanguinary bonds between a father and daughter, family, and it has considered its duty under article 45 of the Constitution to, as a part of the state generally, to protect and preserve the welfare of the family unit, the building block of the nation. The second consideration is that none of the defendants save the 1<sup>st</sup> defendant have appeared or been represented in court today to urge a rejection of the application for



adjournment. Lastly, even the 1<sup>st</sup> defendant's counsel when she appeared in the morning during the outline proceedings, did not object to the proposed adjournment.

6. This court is however, aware that such absence or lack of objection does not bind it to retain this case among the active files in this station. This court still retains the discretion to dismiss a case in which a plaintiff has absented himself or conducted himself lackadaisically to the disadvantage of the defendants.
7. However, owing to the first consideration listed above, this court is inclined to give the parties a chance to meet out there and agree on what to do with their suit, in default of which this court will be inclined to take control of the matter and limit the parties attempts at taking any further liberties with the court process.
8. Consequently, I reluctantly, allow Mr Githui's application for adjournment on behalf of the plaintiff and I order that counsel shall trace his client and consult with him within 14 days of this orders on the way forward in this litigation.
9. I will grant this matter 2 dates, a mention date to ascertain the plaintiff's interest in the matter on March 20, 2023 and a hearing date on May 4, 2023.

The hearing scheduled for today is therefore adjourned. Any party who has not complied will comply, the plaintiff going first within the first 7 days from the date of this order and the defendant in any event within 14 days from today.

10. The mention given shall be for either confirming the hearing date or withdrawal of the suit and parties/ counsel must attend it in default of which their claim shall stand automatically dismissed.

**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 9<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**MWANGI NJOROGE**

**JUDGE, ELC, NAKURU**

