Foam Plastics Limited & 2 others v Suleiman Consult Limited & 3 others (Environment and Land Case Civil Suit E284 of 2021) [2023] KEELC 18614 (KLR) (6 July 2023) (Ruling)

Neutral citation: [2023] KEELC 18614 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ENVIRONMENT AND LAND CASE CIVIL SUIT E284 OF 2021

JO MBOYA, J

JULY 6, 2023

BETWEEN

FOAM PLASTICS LIMITED .... 1ST PLAINTIFF

PREMJI VALJI PINDORIA .... 2ND PLAINTIFF

JITENDRA VALI MULJI .... 3RD PLAINTIFF

AND

SULEIMAN CONSULT LIMITED .... 1ST DEFENDANT

CHIEF LAND REGISTRAR .... 2ND DEFENDANT

REGISTRAR OF COMPANIES .... 3RD DEFENDANT

HONOURABLE ATTORNEY GENERAL .... 4TH DEFENDANT

RULING

Introduction And Background

1. The instant Ruling relates to the Notice of Motion Application dated the March 17, 2023; and in respect of which the Plaintiffs/Applicants have approached the Honourable court seeking the following Reliefs;

   i. ....Spent.

   ii. ....Spent.

   iii. The order made by this Honorable Court on the March 9, 2023; dismissing this suit be and is hereby set aside and the suit therein be reinstated to proceed for hearing and determination on merits.

iv. The court be pleased to give such directions as it may consider appropriate for the purpose of ensuring the scales of justice are evenly balanced pending the hearing and determination of the suit.

v. The costs of this Application be in the cause.

2. The instant Application is premised on various grounds which have been alluded to and enumerated in the body thereof. Further and in addition, the Application is supported by the affidavit of Mr. Anthony Okulo, Advocates on record for the Plaintiffs/Applicants.

3. Suffice it to point out that upon being served with the instant Application the Office of the Honorable Attorney General filed an elaborate Grounds of opposition dated the May 2, 2023, for and on behalf of the 2nd and 4th Defendants/Respondents.

4. On the other hand, the 1st and 3rd Defendants/Respondents neither filed any Grounds of opposition nor Replying affidavit or otherwise to the Application beforehand.

5. Be that as it may, the instant Application came up for hearing on the May 18, 2023; whereupon the advocates for the Plaintiffs/Applicants and the 2nd and 4th Defendants/Respondents agreed to canvass and dispose of the Application by way of written submissions.

6. Consequently and in this respect, the Honourable court thereafter proceeded to and circumscribed timelines for filing and exchange of written submissions.

Submissions By The Parties

a. Applicants' Submissions:

7. The Applicants herein filed written submissions dated the May 24, 2023 and in respect of which same has raised, highlighted and canvassed four salient issues for consideration by the Honourable court.

8. Firstly, Learned counsel for the Applicants has submitted that when the matter came up for hearing on the March 9, 2023, the designated advocate, namely, Ms. Tracy Murigi applied for an adjournment on various grounds, inter-alia that the Plaintiff's advocates had just been instructed to take up the conduct of the suit for and on behalf of the Plaintiffs/Applicants.

9. Further and in addition, Learned counsel has contended that despite the efforts by the designated advocate to procure and obtain an adjournment, the application for adjournment was declined and dismissed by the court.

10. Furthermore, Learned counsel has submitted that after the Application for adjournment was declined, the designated advocate imagined and perceived that the scheduled hearing shall proceed on the virtual platform. However, counsel has submitted that the designated advocate only realized that the matter was proceeding in open court, when same called an officer of the Environment and Land Court.

11. Secondly, Learned counsel has submitted that the designated counsel finally and ultimately arrived in open court approximately 8 minutes after the Honourable court had disposed of and dismissed the suit for want of prosecution under Order 17 Rules 4 of the *Civil Procedure Rules, 2010*.

12. Thirdly, Learned counsel has submitted that the dismissal of the suit on the basis of Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, constitutes an error and/or mistake on the part of the court. In this respect, counsel has added that if the court was inclined to dismiss the suit; same ought to have invoked and applied the provisions of Order 12 of the *Civil Procedure Rules* and not otherwise.

13. Fourthly, Learned counsel has submitted that the provisions of Order 17 of the *Civil Procedure Rules* are coached in such a manner that once a suit is so dismissed then such a suit cannot be reinstated and/or restored, whereas if the suit was dismissed under Order 12 of the *Civil Procedure Rules, 2010*, same permits and allows reinstatement and/or restoration.

14. Other than the foregoing, Learned counsel for the Applicant has also submitted that the Applicant herein have demonstrated and placed before the Honourable court sufficient reasons and/or basis to warrant review and/or variation of the impugned orders that were made by the court on the March 9, 2023.

15. Consequently and in the premises, Learned counsel for the Applicants has implored the Honourable Court to find and hold that the Applicants herein have established and demonstrated a clear basis to warrant the review, variation and setting aside of the orders made/rendered on the March 9, 2023.

16. In support of the foregoing submissions, Learned counsel for the Applicants has cited and relied on various decisions, *inter-alia*, *John Njoroge Waweru v Kariuki Kirige & 6 others*, Nyahururu ELC No 314 of 2017 (UR), *Rose Makacha Mteku v Oserian Development Company Ltd*, Naivasha HCC Appeal No 26 of 2018 (UR), *Ezekiel Mwaka Musau & Another v National Bank of Kenya* Embu ELC No 123 of 2017(UR) and *ASL Credit Limited v Abdi Basid Sheik Ali* HCC No E111 of 2018(UR), respectively.

b. 2nd and 4th Respondents' Submissions:

17. The 2nd and 4th Respondents herein technically did not file written submissions. However, the 2nd and 4th Respondents filed elaborate grounds of opposition which contained and included submissions therein and various decisions were also enumerated and elaborated upon.

18. Give the nature of the grounds of opposition, one is able to extract and distill the position taken by and on behalf of the 2nd and 4th Defendants/Respondents.

19. Firstly, Learned counsel for the 2nd and 4th Respondents have submitted that insofar as the subject suit was dismissed for want of prosecution under Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, the Honorable court is devoid and bereft of the requisite Jurisdiction to reinstate and/or restore the suit for hearing, either in the manner sought or at all.

20. In support of the foregoing position, Learned counsel for the 2nd and 4th Respondents has cited and relied on the case of *Erick Kimingichi Wapang'ana v Isaac Zacharia Mulati & 2 others* [2014] eKLR Civil Appeal No. 107 of 2016, wherein it is stated that the court of appeal had occasioned to consider the jurisdiction of the court as pertains to a suit that has been dismissed for want of prosecution.

21. Secondly, Learned counsel for the 2nd and 4th Respondents has also contended that the dismissal of a suit for want of prosecution constitutes and amounts to a Judgment in favor of the Defendants.

22. Furthermore, Learned counsel has contended that once such a Judgment is entered and/or endorsed by the Honourable court in accordance with the provisions of Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, the court becomes functus officio and thus cannot be re-invited to reinstate a suit that is non-existent.

23. In support of the foregoing submissions, Learned counsel has cited and invoked the holding in the case of *Njue Ngai v Ephantus Njiru Ngai & Another* (2016)eKLR, wherein the Court of Appeal considered the meaning and tenor of a dismissal of a suit.

24. Lastly, Learned counsel for the 2nd and 4th Defendants/Respondents has also invoked and raised the Doctrine of Functus officio and invited the Honourable court to find and hold that the orders made on the March 9, 2023 were final in nature and can only be appealed against and not otherwise.

25. Consequently and in the premises, Learned counsel has cited and relied on the case of *Telkom Kenya Ltd v John Ochanda (Suing on his own behalf and on behalf of 996 former employees of Telkom Kenya Ltd* (2014)eKLR.

26. Based on the foregoing, Learned counsel for the 2nd and 4th Respondents has therefore implored the Honourable court to find and hold that the current application before the court is not only misconceived but is legally untenable.

c. 1st and 3rd Respondents' Submissions:

27. The 1st and 3rd Respondents herein neither filed nor served any responses to the instant application. Similarly, same have not also filed any written submissions or at all.

Issues For DeterminatioN

28. Having reviewed the Application dated the March 17, 2023; and the Response thereto filed and on behalf of the 2nd and 4th Defendants/Respondents; and having considered the written submissions on record, the following issues do arise and are thus germane for determination;

    i. Whether this Honorable court is seized and possessed of the requisite Jurisdiction to reinstate and/or otherwise restore the subject suit for hearing on merit.

    ii. Whether the Applicants herein have in any event placed before the Honorable court cogent, plausible and credible basis to warrant invocation of Equitable Discretion in their favor.

Analysis And Determination

Issue Number 1 - Whether this Honorable court is seized and possessed of the requisite Jurisdiction to reinstate and/or otherwise restore the subject suit for hearing on merit.

29. Before venturing to consider and address the issue itemized herein before, it is imperative and appropriate to revert back and take cognizance of the circumstances obtaining on the March 9, 2023; shortly before the subject suit was dismissed for want of prosecution.

30. To start with, the hearing date for the March 9, 2023 was fixed and taken on the November 22, 2022 albeit in the presence of the advocates for the respective Parties, learned counsel for the Plaintiffs inclusive.

31. First forward, on the March 9, 2023, when the suit was called out, Learned counsel for the Plaintiff/Applicant made an application for adjournment on various grounds, whose details are enumerated in the record of the court. However, the application for adjournment was vehemently opposed by the advocates for the Defendants and thereafter the Honourable court was called upon to render a ruling thereon.

32. Notably, the Honourable court proceeded to and rendered a ruling wherein the court pointed out that the scheduled hearing date had been fixed and taken by consent. Furthermore, the court also observed that the reasons that was being advanced for adjournment was not meritorious or otherwise.

33. Consequently and arising from the foregoing, the application for adjournment by and at the instant of the Plaintiffs/Applicants was dismissed and thereafter the court made directions pertaining to further proceedings in respect of the subject matter.

34. For good measure, the court made very clear and explicit directions which included the time allocation for the hearing of the matter. For coherence, the record of the court shows that the subject matter was allocated to be heard at 12 noon.

35. Additionally and for the avoidance of doubt, the Honourable court also proclaimed that the hearing shall proceed in open court Number 25 at Milimani Law Courts and not otherwise.

36. Pursuant to and in line with the clear and explicit directions which the court gave in the presence and with the involvement of all the advocates who were present on the fateful morning, the advocates for the 1st, 2nd and 4th Defendants/Respondents duly and punctually attended court and expressed their readiness to proceed with the scheduled hearing.

37. However, Learned counsel for the Plaintiffs herein who was present at the time of the issuance of the directions failed and/or neglected to attend court either as prescribed or at all. In any event, Learned counsel also did not endeavor to reach out to the advocates for the adverse parties and to communicate any difficulty, if any, that same was experiencing.

38. Left without any communication or otherwise, the advocates for the 1st, 2nd and 4th Defendants intimated to the court that same were still ready to proceed, but in the absence of counsel for the Plaintiffs; same applied to have the suit dismissed for want of prosecution under Order 17 Rule 4 of the *Civil Procedure Rules, 2010*.

39. Instructively and taking into account that the Plaintiffs had been afforded the requisite opportunity and latitude to present their case and coupled with the fact that neither counsel for the Plaintiffs nor the Plaintiffs themselves were present in court; the court was left with no alternative but to invoke and apply Order 17 rule 4 of the *Civil Procedure Rules, 2010*.

40. From the foregoing background, it is common ground and beyond doubt, that the Plaintiffs/Applicants suit was indeed dismissed for want of prosecution after the requisite opportunity had been availed and afforded to the Plaintiffs to prosecute their case before the court.

41. Having supplied the foregoing background, I now wish to revert back to the issue beforehand. For good measure, the issue beforehand relates to whether this court has Jurisdiction to set aside the dismissal orders made pursuant to Order 17 Rules 4 of the *Civil Procedure Rules, 2010*.

42. To my mind, where a suit is dismissed pursuant to and under the provisions of Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, such a dismissal constitutes a Judgment for the Defendants.

43. In respect of the foregoing Legal position, it is appropriate to adopt, restate and reiterate the ratio decidendi that was elaborated upon by the Court of Appeal in the case of *Njue Ngai v Ephantus Njiru Ngai & Another* (2016) eKLR, where the Honorable Court of Appeal observed as hereunder;

> "Another issue may arise as to whether a dismissal of a suit for non-attendance of the plaintiff or for want of prosecution, amounts to a judgment in that suit. The predecessor of this Court answered that issue in the affirmative when considering the dismissal of a suit for failure by the plaintiff to attend court in the case of Peter Ngome vs Plantex Company Limited [1983] eKLR stating:-

Rule 4(1) does not say "judgment shall be entered for the defendant or against the plaintiff". It uses the word "dismissed". The *Civil Procedure Act* does not define the word "judgment". According to Jowitt's Dictionary of English Law 2nd ed p 1025:

Judgement is a judicial determination; the decision of a court; the decision or sentence of a court on the main question in a proceeding or/one of the questions, if there are several."

Mulla's Indian Civil Procedure Code, 13th Ed Vol 1 p 798 says: "Judgment" means the statement given by the judge on the grounds of a decree or order," "Judgment – in England, the word judgment is generally used in the same sense as decree in this code".

In my view, a judgment is a judicial determination or decision of a court on the main question(s) in a proceeding and includes a dismissal of the proceedings or a suit under Rule 4(1) of Order 1XB or under any other provision of law. A dismissal of a suit, under Rule 4(1) is a judgment for the defendant against the plaintiff. An application under Rule 3 of Order 1XB includes application to set aside a dismissal. This must be so because, when neither party attends court on the day fixed for hearing, after the suit has been called on for hearing outside the court, the court may dismiss the suit, and, in that event, either party may apply under Rule 8 to have the dismissal set aside or the plaintiff may bring a fresh suit subject to any law of limitation of actions:

See Rule 7(1) of Order 1XB. This, I think, clearly shows that Rule 7(2) was intended to bar a plaintiff whose suit has been dismissed under Rule 4(1), only from bringing a fresh suit. That provision does not bar such a plaintiff from applying for the dismissal to be set aside under Rule 8". [Emphasis added]

44. Whereas the Court of Appeal was considering the import and tenor of a dismissal made on account of non-attendance by a Party and/or counsel for the Party, the clear position that was elaborated upon and underscored is to the effect that the dismissal of a suit constitutes a Judgment to the Defendants.

45. Be that as it may, in respect of the instant matter, it is not lost on this Honourable court that the dismissal was being undertaken long after the legal counsel for the Plaintiffs had been afforded due latitude and opportunity to present her case but same had failed and/ or neglected to do so.

46. Additionally, it is important to state and underscore that the consequential orders that were made by the court, culminating into the dismissal of the suit arose from and constitutes part of the previous proceedings that had hitherto been taken over and in respect of the subject matter, albeit in the presence of Learned counsel for the Plaintiffs/Applicants.

47. To the extent that the suit herein was dismissed under Order 17 Rule 4 of the *Civil Procedure Rules, 2010*; I hold the firm position that having so dismissed the suit, this court is deprived and divested of Jurisdiction to revisit the matter, either as sought or otherwise.

48. Further and to the contrary, I hold the opinion that where a suit has been dismissed for want of prosecution, either under Order 17 Rule 2 or 4 of The *Civil Procedure Rules, 2010*; the only available recourse is an appeal to the Court of Appeal and not otherwise.

49. For good measure, I beg to repeat and reiterate previous decisions that this very court has made on the same question. In this respect, it is imperative to cite and adopt the holding in the case of *Homeboyz*

Entertainment Limited v Secretary National Building Inspectorate & 2 others [2022] eKLR, where the court stated as hereunder;

> 'My reading of the foregoing provision of the law [Order 17 Rule 4 of the *Civil Procedure Rules, 2010*], suggest and/or connotes that where a Party has been afforded and/or availed sufficient and/or reasonable opportunity to tender evidence, but same has failed to do so, the court is at liberty to determine the suit forthwith. It is apparent, that by the usage of the Word; by determining the suit, the court is granted the liberty to either enter judgment, where there is a limb of the claim that is admitted by the adverse party or better still dismiss the suit as against the defendant. Nevertheless, it is imperative to note that even where the suit is dismissed for want of prosecution, such a dismissal constitutes or amounts to a judgment in favour of the defendant.
>
> Whereas, a dismissal which is done in the absence of the Parties or one of the Parties, is amenable to be set aside pursuant to an application under Order 12 Rule 7 of the *Civil Procedure Rules, 2010*, a dismissal for want of prosecution, made and/or undertaken in the presence of the Parties leads to an Inter-Partes judgment, in the nature of a dismissal and same does not lend itself to setting aside. In the circumstances, it is my humble position that having entertained arguments from both the Plaintiffs and the defendants, on the December 16, 2021, the resultant decision is one that can only be appealed against and not otherwise.

50. Moreover, this court had yet another opportunity to speak to and address the legal implication and tenor of Order 17 Rule 4 of the *Civil Procedure Rules* in the case of *China Bente Industry (K) Limited v Komen & another* (Environment & Land Case 358 of 2019) [2022] KEELC 15387 (KLR) (21 November 2022) (Ruling), where this court held thus;

> 53. In a nutshell, I reiterate that having dismissed the suit for want of prosecution under the Provisions of Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, this Honourable court is devoid and bereft of jurisdiction to entertain the instant application.

51. The decisions of this court aside, my attention has also been drawn to the case of *Erick Kimingichi Wapang'ana v Isaac Zacharia Mulati & 2 others* Civil Appeal No. 107 of 2016 (UR) where the Court of Appeal (per Kiage JA) stated and held as hereunder;

> " I agree with the learned judge that upon an order of dismissal (for want of prosecution) being made, the suit seized to exists and that rendered the court functus officio, its powers therein at an end. The only recourse available to the Appellant was to appeal against such dismissal, as was rightfully held by the learned judge"

52. Emboldened by the holding of the Court of Appeal in the decision (supra) and coupled with the previous decisions emanating from this very court, I come to the conclusion that having dismissed the instant suit for want of prosecution under Order 17 Rule 4 of the *Civil Procedure Rules, 2010*, this Honourable court is devoid of the requisite Jurisdiction to re-engage with the current application and by extension the said suit.

53. Furthermore, in the absence of the requisite Jurisdiction to re-engage with the suit, the invitation by and at the instance of the Plaintiffs/Applicants herein is therefore misconceived and legally untenable.

Issue Number 2; Whether the Applicants herein have in any event placed before the Honorable court cogent, plausible and credible basis to warrant invocation of Equitable Discretion in their favor.

54. Having found and held that this Honourable court is devoid and divested of the requisite Jurisdiction to entertain and adjudicate upon the subject application, it would have been appropriate to terminate the ruling and to proclaim the dispositive orders.

55. However, for the sake of completeness, I feel obliged and obligated to venture forward and also consider the nature and kind of reasons being advanced by the Plaintiffs/Applicants herein to anchor their non-attendance before the Honourable court at the time and place that was prescribed.

56. To start with, Learned counsel for the Plaintiffs/Applicants avers that after the call over and upon the matter being given time allocation for hearing at 12 noon, same imagined that the hearing shall proceed on the virtual platform. In this regard, Learned counsel has proceeded to and further averred that she therefore remained on the virtual platform waiting to be admitted into the days- proceedings, albeit to no avail.

57. Other than the foregoing, Learned counsel for the Plaintiffs/Applicants has therefore contended that when same realized that she was not being admitted into (sic) the days proceedings, same called an officer of the Environment and Land court who informed her that the matter was proceeding in open court.

58. Additionally, Learned counsel has also averred that same thereafter made efforts to come to court and that she arrived 8 minutes after the Honourable court had rendered itself on the case and adjourned sine die.

59. The reasons and/or explanations being given at the foot of the supporting affidavit on behalf of the Plaintiffs/Applicants, sound extremely curious and dishonest on the part of Learned counsel for the Plaintiffs/Applicants.

60. Firstly, after the court rendered a ruling pertaining to and concerning the application for adjournment, the court proceeded to and made clear directions indicating the time and place of trial. For good measure, the court record reveals that the hearing was to proceed in open court number 25 at 12 noon.

61. Surely, Learned counsel for the Plaintiffs/Applicants who was present during the entire proceedings cannot now feign ignorance and pretend that the hearing was to proceed on the virtual platform. Clearly, the impugned intimation is dishonest and misleading.

62. Secondly, the advocates for the adverse Parties, who were present on the same platform and participated in the same proceedings with Learned counsel for the Plaintiffs/Applicants, made efforts and attended court (open court) within the set timelines.

63. In this respect, the question that does arise is how did the advocates for the adverse parties know that the hearing was to be conducted in open court and not on the virtual platform; if the court did not make such proclamation.

64. Yet again, the allegations by and on behalf of Learned counsel for the Plaintiffs/Applicants that she was waiting on the virtual platform are not legally tenable. In any event, the impugned allegations are laced nay replete with dishonesty.

65. Thirdly, the advocate for the Plaintiffs/Applicants has also purported that when same realized that same was not being admitted onto the platform of the days hearing; same made a phone call to

an official in the Environment and Land court division, who informed her that the hearing will be conducted in open court (see paragraph 8 of the supporting affidavit).

66. Interestingly, the Deponent of the supporting affidavit has not disclosed the details and identity, if at all, of the official of (sic) the Environment and Land court division, who was allegedly called and who informed the deponent that the hearing will be conducted in open court.

67. Further and in addition, the cellphone details of the nameless/faceless official in the Environment and Land Court Division who was allegedly called has also neither been disclosed nor provided.

68. Other than the foregoing, it is also not lost on the Honourable court that the deponent of the supporting affidavit has also not extracted and provided the call logs relative to the phone call, if any, that was made to the nameless/faceless official of the Environment and Land Court Division, in the manner alluded to or otherwise.

69. There is no gainsaying that he who seeks to partake of and benefit from the Equitable discretion of the court must display honesty, integrity and candour; and furthermore such an Applicant must not indulge in activities that are intended to defraud the cause of Justice.

70. Unfortunately, in respect of the instant matter the Plaintiffs/Applicants and their counsel have chosen not only to distort the facts, but also to rely on deliberate misrepresentations, in a bid to "confuse" the Honourable court into exercising equitable discretion.

71. Sadly, I must point out that the Equitable discretion of the Honourable court cannot be invoked and applied to aid, assist and/or help a Party who is either keen to obstruct and/or delay the due process of the court or better still; is desirous to cover-up apathy and lethargy in the discharge and execution of professional obligations.

72. In this respect, it is appropriate and expedient to borrow from the holding of the Court of Appeal in the case of *Habo Agencies Limited v Wilfred Odhiambo Musingo* [2015] eKLR, where the court held as hereunder;

> "I further find that the applicant was not candid in explaining the delay and this deprives it of equitable relief. Furthermore, considering that it was with the consent of both sides that part of the decretal amount placed in escrow was released to Wilfred, I agree with Mr. Osiemo that the further prolongation of this litigation would be prejudicial to the decree holder and would violate the public policy that litigation must come to an end. The upshot is that this application is lacking in merit and I order that it be and is hereby dismissed with costs".

73. Instructively, the Court of Appeal in the said decision (*supra*), underscored that where a Party is less than candid, such lack candour, deprives and disentitles the Applicant of Equitable intervention. I wholly agree.

74. Having calibrated upon the various reasons that were propagated by and at the instance of the Applicants herein as the basis for the default to attend court on the March 9, 2023; I beg to point out that I am not convinced on the honesty and bona fides of the explanations tendered/availed.

75. In the premises, even if the determination of the instant Application was to be premised on exercise of Judicial discretion; I would have been disinclined to exercise Judicial discretion in favor of the Applicants.

Final Disposition

76. From the foregoing discourse, it must have become evident and apparent that once a suit is dismissed for want of prosecution in terms of Order 17 Rules 4 of The *Civil Procedure Rules, 2010*; the only recourse available to the victim of such dismissal is to mount/file an appeal to the Honorable Court of Appeal.

77. However, in respect of the instant matter the Applicants have reverted to this court seeking to set aside the Dismissal orders. Surely and to my mind, the court herein is divested of Jurisdiction.

78. Consequently and in the premises, the Application dated March 17, 2023; is devoid of merits and hence same be and is hereby dismissed with costs to the 2nd and 4th defendants only.

79. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 6TH DAY OF JULY 2023.

OGUTTU MBOYA

JUDGE.

In the Presence of;

Benson Court Assistant

Mr. Anthony Okulo for the Plaintiffs/Applicants.

Mr. Allan Kamau for the 2nd and 4th Defendants/Respondents.

N/A for the 1st and 3rd Defendants/Respondents.