



Unity 45 Housing Co-operative Society Limited v Kimuli & 3 others (As Chairman, Secretary, Treasurer and Patron of Maili Saba Mwengenyu Youth Self Help Group); Owuor & 2 others (Interested Parties) (Environment & Land Case 994 of 2014) [2023] KEELC 18796 (KLR) (12 July 2023) (Ruling)

Neutral citation: [2023] KEELC 18796 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 994 OF 2014**

LN MBUGUA, J

JULY 12, 2023

BETWEEN

UNITY 45 HOUSING CO-OPERATIVE SOCIETY LIMITED PLAINTIFF

AND

PETER NGULU KIMULI, KORI KAMUYU, SAMMY KAMANDE & PETER MWAGA (AS CHAIRMAN, SECRETARY, TREASURER AND PATRON OF MAILI SABA MWENGENYU YOUTH SELF HELP GROUP) DEFENDANT

AND

DORICE AUMA OWUOR INTERESTED PARTY

TIMOTHY MWEMA KIBANGA INTERESTED PARTY

JOSHUA NZUA MUTHUSI INTERESTED PARTY

RULING

1. This second ruling relates to the prayer for adjournment made by Mr. Kopere on behalf of Mr. Esuchi. On the issue of Mr. Esuchi's ailment, this court rendered a decision this morning. The medical document being availed by 3rd Interested Party was not availed to the court or to the plaintiffs advocate this morning. It is quite apparent that counsel for 1st & 3rd Interested Parties is able to give directions on the matter, since he did managed to send a counsel to hold his brief on the earlier day of 5.7.2022 as well as today.
2. The court's records are also self explanatory and I need not rehash what transpired on 5.7.2023. the averments being advanced by Mr. Kopere as to what transpired last time on 5.7.2022 are hence not warranted. The case shall not be adjourned.



3. On the issue of the statement that Mr. Kopere desires to avail to substitute his witness who is sick, I find that he claims that the new witness statement is word for word that of the previous witness. As long as that is the situation, then the said witness statement shall be admitted as evidence in court during the trial.

4. For now the case is to proceed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 12TH DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Mbichire for Plaintiff

Kibukosya holding brief for Esuchi for 1st - 3rd Defendants and for 1st Interested Party

Ongocho holding brief for Kopere for Defendants and for 2nd Interested Party

Court assistant: Eddel

