



**Ismail Rahimtulla Trustees Registered & another v Joint Administrators –  
Spenco Kenya Limited (Under Administration) & 2 others (Environment &  
Land Case 375 of 2017) [2023] KEELC 20520 (KLR) (5 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20520 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 375 OF 2017  
LN MBUGUA, J  
OCTOBER 5, 2023**

**BETWEEN**

**ISMAIL RAHIMTULLA TRUSTEES REGISTERED ..... 1<sup>ST</sup> PLAINTIFF**

**SONY HOLDINGS LIMITED ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**JOINT ADMINISTRATORS – SPENCON KENYA LIMITED (UNDER  
ADMINISTRATION) ..... 1<sup>ST</sup> DEFENDANT**

**PRAGNESH JITENDRA PATEL ..... 2<sup>ND</sup> DEFENDANT**

**ASHUTOSH SHARMA ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. Vide a Notice of Motion Application dated 24.5.2023, the 2<sup>nd</sup> defendant prays that the court orders of 29.3.2018 and 24.9.2020 directing the matter to proceed as a formal proof be set aside, that their defence dated 20.4.2018 be deemed as properly filed and that the date set for formal proof 6.12.2023 be converted to a full hearing date.
2. It is averred that the plaintiff never protested the issue of service of the defence, nor did they serve the 2<sup>nd</sup> defendant with a notice of entry of interlocutory judgment.
3. The plaintiffs have opposed the application through a Replying Affidavit of one Duncan Kibunyi, a Chief Finance Officer of Althaus Management & Consultancy Ltd who are maintaining the books of the plaintiffs in relation to the leases in Rahimtulla Trust Building. The said Replying Affidavit is dated 20.6.2023.
4. I have considered all the arguments raised herein. I find that this court pronounced itself vide its ruling dated 16.2.2023 where the issues being raised by the applicant were determined (see paragraph 21,22



and 24 of the said ruling). This court cannot sit on appeal on its own ruling. As such the application dated 24.5.2023 is hereby dismissed with costs of the plaintiff.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5<sup>TH</sup> DAY OF OCTOBER, 2023  
THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Okatch and Obegi for the Plaintiff

Mwindi for Applicant for 2<sup>nd</sup> Defendant

Court Assistant: Eddel

