



**Njoroge v Koinange & another (Environment & Land Case
619 of 2013) [2023] KEELC 20541 (KLR) (5 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20541 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 619 OF 2013
LN MBUGUA, J
OCTOBER 5, 2023**

BETWEEN

MONICA WANJIRU NJOROGE PLAINTIFF

AND

LENAH CATHERINE KOINANGE 1ST DEFENDANT

REGISTRAR OF TITLES - KAJIADO 2ND DEFENDANT

RULING

1. Before me is the plaintiff's application dated 11.4.2023 seeking orders for the reinstatement of the suit which was dismissed on 21.11.2018 and for the reinstatement of the injunctive orders given on 24.7.2014. She blames her advocate for not communicating to her the status of the case.
2. The 1st Respondent opposed the application *vide* her Replying Affidavit dated 2.6.2023 where it is averred that even if equity is stretched to its limits, it cannot aid the applicant as the notice to act in person is irregular, that there has been an unreasonable, inordinate and inexcusable delay and that the 1st Respondent now stands to be prejudiced if the matter is reinstated.
3. The 2nd Respondent has also opposed the application via Grounds of opposition dated 5.5.2023. Similarly, the 2nd Respondent decries the unreasonable delay, adding that the applicant's accusations against her advocate have not been supported by any evidence.
4. I have considered all the issue raised herein including the submissions of the applicant filed in the CTS (digital platform) on 12.6.2023. The issue for determination is whether this suit should be reinstated or not.
5. In the case of *James Yanga Yeswa v Bob Morgan Services Limited* [2019] eKLR, the court laid down the principles for consideration in an application for the reinstatement of a suit which include whether there was inordinate delay and whether there was a plausible explanation for such a delay.



6. I have perused the entire record before and after the dismissal of the suit. The suit was filed on 24.5.2013 and was dismissed five years later for want of prosecution through a Notice to Show Cause on 21.11.2018. After the dismissal of the suit, the court was only moved 5 years later vide the current application dated 11.4.2023.
7. It is quite clear that the delay before the dismissal of the suit and in the filing of the current application has been inordinate. The Applicant blames her advocate for not communicating to her, the status of the case. However, in the case of Mwangi Jachienge & 2 others v Mwaura Gitbuku C also known as Bernard Mwaura J & another [2019] eKLR, the court stated that;

“Where a litigant goes to sleep after filing a suit, he cannot blame his advocate for having not updated him on the position of the matter, or when the matter is dismissed because it has not been prosecuted or fixed for prosecution within one (1) year”.
8. This is a case where by the Applicant is able to recall that she had obtained injunctive orders against the respondents way back on 24.7.2014 and her interests appears to be hinged on the reinstatement of the said orders, not even bothering to know that such orders were vacated way back on 4.5.2015.
9. The picture painted in the lifespan of this suit is unflattering, and it is evident that the applicant has been complacent and casual during a period of over 10 years. The delay in the prosecution of the case and the quest to have the suit reinstated is prolonged, unreasonable, unexplained and inexcusable. This court would be promoting sloth if it was to allow the current application. In the circumstances, the application dated 11.4.2023 is hereby dismissed with costs to the Respondents.

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

LUCY N. MBUGUA

JUDGE

In the presence of:-

Naliaka holding brief for Musungu for Plaintiff

Macharia for 1st Defendant

Monica Wanjiru Plaintiff

Court Assistant: Eddel

