

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 05 OF 2020

JULIUS NYAGAH KITHOME PLAINTIFF

VERSUS

JANTON INVESTMENT LIMITED.....1ST DEFENDANT

COUNTY GOVERNMENT OF THARAKA NITHI2ND DEFENDANT

RULING

1. Whereas this matter is for hearing, the court has been asked for an adjournment by Ms. Wahome, learned counsel for the 1st Defendant. I have listened and considered to all the arguments for and against the application. The main reason given for the application is that the 1st Defendant was only served by advertisement in the newspaper on **29th January, 2022** and counsel filed notice of appointment today. The question of whether or not to grant an adjournment is at the sole discretion of the court, of course taking into account the reasons for adjournment. In this case, it is not disputed that the service on the 1st Defendant was very short. Indeed the 1st Defendant is yet to file their pleadings. All that they have done is to file a notice of appointment of advocate which, as earlier stated, was only filed this morning. It would be quite unfair to compel counsel for the 1st Defendant to proceed when it is clear that the 1st Defendant was served by the Plaintiff late. No doubt the notice given was insufficient as the service was effected on **Saturday 29th January, 2022**, while the hearing of the matter is on **1st February, 2022**.

2. The court has also noted that the Plaintiff had been granted the last adjournment in the matter on **17th January, 2022**. Since it is clear that today's adjournment has been occasioned by the Plaintiff who effected service upon the 1st Defendant quite late, I direct that the Plaintiff will pay today's costs to the 2nd Defendant as well as Court Adjournment Fees. The 1st Defendant is directed to file and serve their documents within **15 days of today**. The matter is fixed for **hearing on 23rd February, 2022**.

3. Orders accordingly.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 1ST DAY FEBRUARY, 2022 IN THE PRESENCE OF:

C/A: MARTHA

MUCHIRI H/B FOR MRS. OTIENO FOR PLAINTIFF

SALUNY FOR 2ND DEFENDANT

MS. WAHOME H/B FOR MBIYU KAMAU FOR 1ST DEFENDANT

C. K. YANO,

JUDGE.