



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NYERI**

**ELC NO. 43 OF 2016**

**ANN NYAGUTHI KAMAU .....1<sup>ST</sup> PLAINTIFF/RESPONDENT**

**SIMON MWANGI WERU ..... 2<sup>ND</sup> PLAINTIFF/RESPONDENT**

**IDAH NYAGUTHI MUHIU.....3<sup>RD</sup> PLAINTIFF/RESPONDENT**

**-VERSUS-**

**ZUBERA NJUGUNA .....1<sup>ST</sup> DEFENDANT/APPLICANT**

**SHAFI GREWAL KAKA .....2<sup>ND</sup> DEFENDANT/APPLICANT**

**RULING**

1. This matter was slated for a Ruling on a Notice of Motion application dated 15<sup>th</sup> May, 2018 as filed herein on 16<sup>th</sup> May, 2018. From a perusal of the record however, it is apparent that when the said application came up for hearing on 26<sup>th</sup> October, 2018 before Honourable Lady Justice L. N. Waithaka, the same was dismissed for non-attendance.

2. By another application dated 26<sup>th</sup> October, 2018, the Defendants sought an order to review the dismissal of the application dated 15<sup>th</sup> May, 2018. While this matter is shown to have been coming up for the hearing of the Motion dated 15<sup>th</sup> May, 2018, it is apparent to me that it is the motion dated 26<sup>th</sup> October, 2018 for review of the earlier orders dismissing the Plaintiffs application dated 18<sup>th</sup> May, 2018 that is due for hearing.

3. A perusal of the application dated 26<sup>th</sup> October, 2018 reveals that counsel for the Defendant/Applicant was unable to be in court on 26<sup>th</sup> October, 2018 when their application came up for hearing due to the fact that the vehicle by which counsel was travelling from Nairobi had a breakdown and hence counsel arrived late in court.

4. It is apparent from a perusal of the supporting affidavit of Churchill Odongo Ombeta Advocate sworn in support of the application that he proceeded to draft the application for reinstatement within the court premises that same morning. The application was filed under certificate of urgency that same day but was not certified urgent and has remained on the bed of the court file to-date.

5. Having considered the same in the circumstances herein and pursuant to the inherent powers of this court to ensure expeditious disposal of disputes, I hereby allow the Motion dated 26<sup>th</sup> October, 2018 with no order as to costs.

6. That being the case, the Defendants are hereby directed to fix the Motion dated 15<sup>th</sup> May, 2018 for hearing within 30 days from the date hereof failure to which the said Motion shall stand dismissed as per the earlier directions of this court issued on 26<sup>th</sup> October, 2021.

7. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 4TH DAY OF NOVEMBER, 2021.**

**IN THE PRESENCE OF:**

.....

.....

.....

**J. O. OLOLA**

**JUDGE**