



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC CASE NO. 659 OF 2013

HUMPHREY NJUGUNA NDUNGU.....PLAINTIFF

VERSUS

JAMES MWAGO WAIGI.....1ST DEFENDANT

EMBAKASI RANCHING COMPANY LIMITED.....2ND DEFENANT

RULING

1. This is the Noticed of Motion dated 20th July 2020 brought under section 3A of the Civil Procedure Rules of 2010, Order 9 Rule 9, Order 51 Rule 1 and Order 45 rule 1 of the Civil Procedure Rules 2010 and all other enabling provisions of the law.

2. It seeks orders:-

1. Spent.

2. That this honourable court be pleased to set aside the order made on 19th September 2019.

3. That upon the grant of prayer 1 herein above this honourable court be pleased to reinstate this suit.

4. Costs of this application to be in the cause.

3. The grounds are on the face of the application and are set out in paragraphs 1 to 13.

4. The application is supported by the affidavit of Humphrey Njuguna Ndungu, the Plaintiff/Applicant herein sworn on the 20th July 2020.

5. It appears the application is not opposed.

6. I have considered the Notice of Motion and the affidavit in support. I find that the Plaintiff/Applicant has advanced plausible reasons to warrant the grant of the orders sought.

7. I find merit in this application and I grant the orders sought namely:-

a. That the orders of 19th September 2019 are hereby set aside and the plaintiff's suit is reinstated.

b. That the Plaintiff/Applicant is hereby directed to set down the suit for hearing within ninety (90) days of the date of this ruling, failure to which the suit shall stand dismissed.

c. That costs of this application be in the cause.

It is so ordered.

DATED, SIGNED AND DELIVERED IN NAIROBI ON THIS 29TH DAY OF JULY 2021.

.....

L. KOMINGOI

JUDGE

In the presence of:-

Mr. Gitari for Mr. Mbaabu for the Plaintiff

Mr. Ng'ang'a for the 1st Defendant

No appearance for the 2nd Defendant

Phyllis - Court Assistant