



**Kenya Society of the Protection and Care of Animals v Ndeiya Muiti Agents Security Team (Civil Case E012 of 2023) [2024] KEHC 5534 (KLR) (3 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 5534 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CIVIL CASE E012 OF 2023  
GL NZIOKA, J  
MAY 3, 2024**

**BETWEEN**

**KENYA SOCIETY OF THE PROTECTION AND CARE OF ANIMALS ..... PLAINTIFF**

**AND**

**THE NDEIYA MUITI AGENTS SECURITY TEAM ..... DEFENDANT**

**JUDGMENT**

1. The plaintiff filed a plaint dated 8<sup>th</sup> November 2023, seeking for orders that:
  - a. An order be issued compelling the defendant to forfeit the said 453 donkeys to the plaintiff to rehome as it deems appropriate or to pay a sum of Kshs. 3,048,000 to the plaintiff; and
  - b. An order be issued that in the event of the failure on the part of the defendant to pay the aforementioned sum or such costs incurred by the plaintiff in respect of care of donkeys and/or other animals placed with it by the defendant as at the date of final determination of this suit within fourteen (14) days of determination of this suit, the plaintiff can proceed to immediately rehome donkeys in its custody by the defendant.
2. The plaint was filed alongside a notice of motion application of the even date wherein the applicant was seeking for order that:
  - a. Spent.
  - b. That pending the hearing and determination of the application herein the Honourable Court be pleased to issue an order allowing the applicant to temporarily rehome donkeys placed under their care by the respondent on various dates commencing on 18th March 2023 until the determination of this application



- c. That pending the hearing and determination of the suit herein, the Honourable court be pleased to issue an order allowing the applicant to temporarily rehome donkeys placed under their care by the respondent on various dates commencing on 18th March 2023 until the final determination of this suit.
  - d. That the Respondents be condemned to pay the costs of this Application.
3. Subsequently, by a ruling delivered on 15<sup>th</sup> February 2024, the prayer 3 of the notice of motion was allowed as prayed.
  4. However, the plaintiff did not move the court on the main suit necessitating the issuance of a notice to show cause why the suit could not be dismissed. On the 30<sup>th</sup> day of April 2024, the plaintiff's counsel informed the court that, the plaintiff did not wish to pursue the prayers in the plaint for compensation and costs and only prays that, the order temporarily rehoming the donkeys be made final.
  5. The defendant that was served to be in court did not appeal and neither has the defendant ever appeared despite service on several occasions.
  6. Having considered the plaintiff's prayer for rehoming the donkeys permanently and having no further claim, I find no tangible issue left for full hearing of the matter. In that case, I find that suit undefended and based on the material before the court, I allow prayer (b) of the plaint in so far as it allows the plaintiff to rehome the donkeys placed in its custody, which in any event, are temporarily rehomed, to be so permanently rehomed.
  7. The other prayers in the plaint are not allowed. There shall be no order as to costs.
  8. Those then are the orders of the court.

**DATED, DELIVERED AND SIGNED THIS 3<sup>RD</sup> DAY OF MAY, 2024.**

**GRACE L. NZIOKA**

**JUDGE**

In the presence of:

N/A for the appellant

N/A for the respondent

Ms. Ogutu: Court Assistant

