



**Kennedy Odhiambo Owiti t/a Odhiambo Owiti & Company  
Advocates v Dominion Farms Limited & 3 others (Commercial  
Case 1 of 2020) [2024] KEHC 6749 (KLR) (6 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 6749 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
COMMERCIAL CASE 1 OF 2020  
RE ABURILI, J  
JUNE 6, 2024**

**BETWEEN**

**KENNEDY ODHIAMBO OWITI T/A ODHIAMBO OWITI & COMPANY  
ADVOCATES ..... PLAINTIFF**

**AND**

**DOMINION FARMS LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**LAKE AGRO LTD ..... 2<sup>ND</sup> DEFENDANT**

**THE REGISTRAR GENERAL OF COMPANIES ..... 3<sup>RD</sup> DEFENDANT**

**THE ATTORNEY GENERAL ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This is a 2020 case. On 23<sup>rd</sup> May 2024, the Plaintiff testified and closed his case. The court reopened the case on conditions attached thereto, with timeines, following the plea by the defendants' counsel, for leave to file documents and witness statements. It is now 14 days since the orders were made.
2. I note that only the 2<sup>nd</sup> Defendant has partially complied with the conditions for reopening of the plaintiff's case and has not told this court why the witness statement has not been filed todate. The same applies to the 3<sup>rd</sup> and 4<sup>th</sup> Defendants who have not told this court why the witness statements in this 2020 matter has not been filed and served.
3. The court made orders on 23<sup>rd</sup> May 2024 for compliance and not partial compliance.
4. As there is no reason given for only partial compliance by the 2<sup>nd</sup> Defendant, no compliance by the 3<sup>rd</sup> and 4<sup>th</sup> Defendants and as the 1<sup>st</sup> Defendant has left it to court, saying that counsel could not get the client for purposes of filing witness statements and documents, I hereby recall and vacate the



orders given on 23<sup>rd</sup> May 2024 reopening the Plaintiff's suit and granting the Defendants leave to file documents and witness statements.

5. As the 2<sup>nd</sup> Defendant filed documents out of the 7 days as ordered on 23<sup>rd</sup> May 2024 and did file them only this morning and has not sought leave of court to enlarge the period for compliance, the documents as filed by the 2<sup>nd</sup> defendant are struck out and expunged from the record.
6. The orders of 23<sup>rd</sup> May 2024 which have not been fully complied with have automatically lapsed.
7. The Plaintiff's case is hereby marked as closed and the defence case is also marked as closed for each defendant.
8. Parties to file submissions in writing within seven (7) days of today.
9. Judgment shall be delivered on 5<sup>th</sup> August 2024 during the recess.
10. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 6<sup>TH</sup> DAY OF JUNE, 2024**

**R. E. ABURILI**

**JUDGE**

