



**JKR v JCR (Originating Summons E001 of 2023)
[2024] KEHC 10095 (KLR) (8 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10095 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
ORIGINATING SUMMONS E001 OF 2023
RN NYAKUNDI, J
AUGUST 8, 2024**

BETWEEN

JKR APPLICANT

AND

JCR DEFENDANT

RULING

1. On 9.3.2023 an originating summons was filed pursuant to Section 45(3) of the Constitution, 2010, Section 17 of the Matrimonial Property Act, 2013 (No. 49 of 2013), Section 13 of the Marriage Act, Sections 1A, 1B 3 & 3A of the CPA CAP 21 And All Other Enabling Provisions of Law. The Applicant moved the court seeking the following orders:
 - a. That a declaration be and is hereby issued to the effect that the Applicant/Plaintiff is entitled to whole shares or such other shares as this court may award of the properties (movable and immovable) acquired by the plaintiff prior to and/or during the subsistence of their marriage but currently in possession for the Respondent/Defendant as the legal owner and cestui que trust respectively namely:
 - i. L.R. No Moi’s Bridge/Sirikwa Block 3 (Ziwa) /231
 - ii. L.R No Moi’s Bridge/Sirikwa Block 2(Ziwa)/33
 - b. That an order do issue directing that the above matrimonial properties be shared according to the contribution made by the parties towards their acquisition
 - c. That in the alternative to all the above, an order do issue directing that the Respondent/Defendant is not entitled to any share of the properties enumerated in (1) (a) and (b) above
 - d. That in the alternative to all the above, an order do issue directing that a valuation be carried out on all the above properties and a valuation report filed in court by a mutually acceptable



valuer after which the court will apportion what is payable to each based on their contribution towards their acquisition and/or development in the best interest of justice

2. This matter as at 18.4.2024 waws yet to be prosecuted. This is in contravention to Order 17 Rule 2 of the *CPR* . There is no explanation for the lengthy delay to prosecute the originating summons. The application is therefore dismissed for want of prosecution with no orders to costs.

DATED, SIGNED AND DELIVERED AT ELDOET THIS 8TH DAY OF AUGUST 2024.

R. NYAKUNDI

JUDGE

