



Jemra Supplies Limited v County Government of Tharaka Nithi (Civil Suit E001 of 2022) [2024] KEHC 13690 (KLR) (6 November 2024) (Ruling)

Neutral citation: [2024] KEHC 13690 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CIVIL SUIT E001 OF 2022
LW GITARI, J
NOVEMBER 6, 2024**

BETWEEN

JEMRA SUPPLIES LIMITED PLAINTIFF

AND

COUNTY GOVERNMENT OF THARAKA NITHI DEFENDANT

RULING

1. I have considered the submissions by the parties herein. The plaintiff has submitted on the issue of costs and interests.
2. On the other hand, the defendant has submitted that there is no valid Judgment on record as the interlocutory Judgment was set aside vide a ruling of this court dated 22/3/2024. The defendant has submitted that the issue of costs and interests in premature as the suit has not been heard.
3. The Ruling issued by this court on 22/3/2024 set aside the interlocutory Judgment gave the defendant leave to defend the suit. The defendant was also ordered to file his defence within ten days.
4. It is my view that it is pre-mature to deal with the issue of costs at this stage before the plaintiff's case is heard and determined. Section 27 of the *Civil Procedure Act* provides:

27. (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid; and the fact that the court or judge has no jurisdiction to try the suit shall be no bar to the exercise of those powers:

Provided that the costs of any action, cause or other matter or issue shall follow the event unless the court or judge shall for good reason otherwise order.



- (2) The court or judge may give interest on costs at any rate not exceeding fourteen per cent per annum, and such interest shall be added to the costs and shall be recoverable as such.”
5. In this case the event that will lead to awarding of costs is the determination of the suit at which point the court will exercise discretion and award costs.
6. The Supreme Court in Petition No.14/2021 (2022) KESC 17(KLR) stated that the guiding principles in awarding costs is that costs follow the event and the court has inherent jurisdiction to make orders on costs.
7. As it is now there exists no Judgment and the directions which the parties want is how to proceed with the plaintiff’s case. It is my view that I should not proceed to give the pending ruling before these issues and settled.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 6TH DAY OF NOVEMBER 2024.

L.W. GITARI

JUDGE

6/11/2024

Ms Kinanga holding brief for Mr. Sarruny for Defendant.

No appearance for Defendant

Mr. Kimathi Ikiara was informed.

The Ruling read out in open court.

L.W. GITARI

JUDGE

6/11/2024

