



Full Gospel Churches of Kenya v Kamau & 2 others (Environment and Land Appeal E008 of 2024) [2025] KEELC 6245 (KLR) (25 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6245 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND APPEAL E008 OF 2024
A OMBWAYO, J
SEPTEMBER 25, 2025**

BETWEEN

FULL GOSPEL CHURCHES OF KENYA APPELLANT

AND

JOHN KIRUBI KAMAU 1ST DEFENDANT

JOSEPH MWANGI KIMANI 2ND DEFENDANT

PAUL NDUNGU KIIRU 3RD DEFENDANT

RULING

1. Paul Ndungu Kiiru hereinafter referred to as the applicant is the respondent in the appeal herein filed by the full Gospel Churches of Kenya. He has brought to this court the application dated 11th August 2025 seeking orders that the appeal herein be dismissed for want of prosecution and that costs of the application be awarded to the applicant.
2. The application is based on grounds that the Appellant filed a Memorandum of Appeal dated 13th February 2024, challenging the judgment of the Honorable Chief Magistrate delivered on 23rd March 2023 in Nakuru CM ELC No. 1 of 2000. Since then, the Appellant has failed and/or neglected to file the Record of Appeal or to take any other steps to prosecute the appeal. No application for extension of time or explanation for the delay has been tendered. The delay is inordinate, unjustified and demonstrates a lack of interest in pursuing the appeal. The continued pendency of the appeal has occasioned great prejudice to the 3rd Respondent/ Applicant, who has been denied the enjoyment of a valid judgment in his favour-
3. He urges that this Honorable Court is vested with inherent jurisdiction to make such orders as are necessary for the ends of justice and to prevent abuse of the court process. It is in the interest of justice that the appeal be struck out or dismissed for want of prosecution. The supporting affidavit of the applicant reiterates the grounds of the application.



4. The appellants has opposed the application and filed a replying affidavit through Francis Kimathi Macharia states that Leave to file this Appeal was granted on February 2024 by Lady Justice L.A. Omolo (J).
5. The Appellant (then Applicant) was granted ten days from 5th February 2024 within which the Appellant (Applicant then) should file and serve its Memorandum of Appeal, and this was timeously filed and served on 13th February 2024.
6. The Appellant/ Applicant applied and paid for typed proceedings in the subordinate Court Case (Nakuru C. M. Court ELC Land Disputes Case No. 1 of 2000- *Full Gospel Church of Kenya -VS- John Kamau, Joseph Mwangi Kimani & Paul Ndungtl Kiiru*).
7. He has been following up the proceedings in the lower Court on a monthly basis so that the Record of Appeal can be filed and thereafter the Appeal be prosecuted but it appears that there is too much work in the Court's typing pool and has been advised to hold on for a while.
8. For this Appeal to be made ready for Hearing there is the necessity of availing all the Pleadings and Typed Proceedings by way of Record of Appeal. It is therefore premature for the Applicant to apply for this Appeal to be dismissed for want of prosecution yet it is not yet mature for prosecution. Given a period of three months from today he will have pursued all the materials relevant for filing a Record of Appeal in this Appeal so that the Appeal can be set down for Hearing.
9. The Applicant shall not be prejudiced in any way if the Appellant is given some good time to prepare this Appeal for Hearing. It is only fair and just if the Application for dismissal of this Appeal for want of prosecution is dispensed with by having it abandoned and the Appellant given the opportunity to prepare the Appeal for Hearing within such a time as the Court shall deem fit.
10. Dismissal of the Appeal for want of Prosecution shall not result in substantive justice, hence it is only fair and just that the Appellant be granted the opportunity to prepare its Appeal for Hearing and determination on merit.
11. I have considered the application and do find that failure to file the record of appeal with the prescribed time cannot be visited upon the appellant as the typed proceedings have not been availed as requested in the letter of 27th March 2025. The lower court file has not been availed to this court as required by law. It is prudent to give the appellant the time limit to file a record of appeal. The upshot of the above is that the appellant is given 60 days to file and serve a record of appeal failure of which to appeal shall be deemed as dismissal for want of prosecution.

RULING DATED SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU THIS 25th DAY OF SEPTEMBER 2025

A O OMBWAYO

JUDGE

