



REPUBLIC OF KENYA



KENYA LAW
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Maina v Industrial and Commercial Development Corporation & another (Commercial Case 10 of 2023) [2025] KEHC 13720 (KLR) (26 September 2025) (Ruling)

Neutral citation: [2025] KEHC 13720 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
COMMERCIAL CASE 10 OF 2023
DO CHEPKWONY, J
SEPTEMBER 26, 2025**

BETWEEN

PETER KIAMA MAINA APPLICANT

AND

**INDUSTRIAL AND COMMERCIAL DEVELOPMENT CORPORATION 1ST
RESPONDENT**

JOSMACK COMPANY LIMITED 2ND RESPONDENT

RULING

1. When this matter came up for Mention on 18th September, 2025, Mr. Kurauka, Counsel for the Applicant informed the court that since the two subject plots have already been sold, They require the full Statement of Accounts on the auctions to enable his client explore the options available on whether to withdraw the suit or amend the Plaintiff to avoid the parties engaging in an academic exercise.
2. Mr. Muiruri, Counsel for the Respondent, stated that from the records, the Applicant had first sought and was granted leave to amend the Plaintiff on 24th July, 2024 and despite five mentions before the Deputy Registrar, he has not complied with the said orders. That noting the non-compliance, the Deputy Registrar granted the Respondent leave to amend their Defence and they also filed list of documents and witness' statement. He holds that in the list of documents, he has attached a certificate of sale which shows the amount at which the suit properties were sold, as one of the documents that had been requested for before the Deputy Registrar. He has therefore urged the court to set down the matter for hearing in the interest of justice since the suit was filed in 2020 and the Applicant has all along known that the properties were already sold and there is need to conclude the same.
3. In rejoinder, Counsel for the Applicant, stated that he is only seeking Statement of Accounts and documents which will show how the sale took place and the amounts which the properties were sold at, so that he can assess the extent of the damages. He thus seeks thirty (30) days for parties to come



back and explain to court the way to proceed in the matter since he cannot amend or seek damages at this juncture without the information that he is seeking.

Analysis and Determination

4. Having listened to the arguments of the Counsel for the Applicant and the Respondent, the court notes that indeed it issued directions on 3rd May, 2024 and granted the Applicant leave to file and serve an Amended Plaint to include all relevant parties to the suit, which has not been done to date. The Applicant's counsel is now seeking an order for the Respondents to issue him a Statement of Accounts which he claims will assist him determine and advice his client on the next cause of action, whether it be to amend the suit or withdraw the same. He holds that he cannot do so without the Statement of Accounts.
5. To determine the issue raised by the Applicant's counsel, the record has been perused and the court notes that the 1st Respondent has filed its List of Documents which is dated 5th March, 2025 and it includes all the documents it seeks to rely on in the trial. It is also undisputed that the two properties were sold and the Certificate of Sale as at 13th April, 2021 has been filed among the documents filed by the 1st Respondent and which explain how the sale took place. Further, a Statement of Accounts which runs from 30th June, 2016 to 13th September, 2021 is also included in the Bundle of 1st Respondent's Documents and it reflects the period of the sale. For this Court, these documents are sufficient enough for the Applicant's counsel to prosecute their case or determine their way forward. The court thus finds no need of granting further directions and adjournments only meant to delay the hearing of this suit and proceeds to direct that the matter be set down for hearing given that it is a claim which was filed in 2020. Mention on 2nd October, 2025 for parties to take directions on hearing date.

It is so ordered.

**RULING DATED AND SIGNED AT KIAMBU THIS 26TH DAY OF SEPTEMBER 2025.
(UPLOADED VIA ELECTRONIC MAIL).**

D. O. CHEPKWONY

JUDGE

In the presence of:-

Court Assistant

