

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT NAKURU  
CAUSE NUMBER E030 OF 2023  
[formerly E&LRC Nairobi, Cause Number 308 OF 2022]**

**BETWEEN**

KIPTOO JUBILOUS ..... CLAIMANT

**VERSUS**

THE COOPERATIVE BANK OF KENYA LIMITED .....  
RESPONDENT

**RULING**

1. This Claim was transferred from the Court in Nairobi to Nakuru, through a ruling of the Court dated 31<sup>st</sup> May 2023.
2. The Court found in its ruling, that the Claimant worked at the Respondent's Nakuru East Branch, and is a resident of Kapsabet town, and there was no justification, in filing his Claim at Nairobi.
3. The Court suggested that he could have filed his Claim at Nakuru or Eldoret, rather than Nairobi. The Claim was therefore transferred to Nakuru in May, 2023.
4. Instead of prosecuting the Claim at Nakuru once it was received at Nakuru, he filed an application dated 5<sup>th</sup> November 2024, asking the Court to further transfer the Claim to the Court in Eldoret.

5. He also seeks stay of proceedings, pending determination of his request for transfer.
6. The Respondent opposes the application, relying on grounds of opposition dated 12<sup>th</sup> July 2025, and an affidavit sworn by its officer, Duncan Matisero.
7. The Respondent also filed its own application dated 26<sup>th</sup> May 2025, asking the Court to dismiss the Claim for want of prosecution, or in the alternative, to have the order of injunction granted to the Claimant, barring the Respondent from selling his parcel of land to recover outstanding loan granted to the Claimant, lifted. The Respondent's application is supported by the affidavit of the same officer.
8. Parties agreed to have the applications considered and determined by the Court on the strength of their affidavits and submissions. They confirmed filing and exchange of submissions at the last mention, on 3<sup>rd</sup> October 2025.

**The Court Finds: -**

9. There is no reason for further transfer of the Claim to the Court in Eldoret. The Court at Nairobi already ruled that the Claim could be heard either at Nakuru, where the Claimant worked, or at Eldoret, nearest to his current domicile, Kapsabet.

10. His argument about his inability to travel to Nakuru, and the cost involved in prosecuting at Nakuru, is baseless. He can log in from his home at Kapsabet, without incurring costs, other than those relating to data bundles. His Advocates can log in from any quarter. He in fact filed the Claim originally at Nairobi, and it was the Court which determined on its own motion, that the Claim could be heard at Nakuru or Eldoret.

11. The Court at Nakuru, issued him an order of injunction barring the Respondent from selling his property, until the Claim is heard and determined, in a ruling dated 11<sup>th</sup> December 2023.

12. What did he do to prosecute the Claim, after 11<sup>th</sup> December 2023? Nothing.

13. The application filed by the Respondent for dismissal of the Claim for want of prosecution is dated 26<sup>th</sup> May 2025. It was however filed, while the application by the Claimant was pending. The Claim could not be prosecuted while the application had not been considered and determined.

14. The application filed by the Respondent as such, is not merited. The order of injunction was granted to the Claimant, pending hearing and determination of the Claim. For whatever reason, the Claim has not been heard and determined.

15. The Court finds the Respondent's position, that the Claimant has dragged his feet in prosecuting his Claim, to have weight. It would appear that the

Claimant is content to sit and enjoy the benefit of the order of injunction granted to him way back in 2023. His attitude must change. He must prosecute his Claim, in the Court to which it was transferred. Failing which the Respondent will be at liberty to renew its application for dismissal of the Claim, and / or discharge of the injunctive order.

**IT IS ORDERED: -**

- a. Both applications are declined.***
- b. The Claimant to prosecute his Claim as soon as practicable.***
- c. The Respondent is at liberty to renew its application in event no concrete steps are taken by the Claimant, to prosecute the Claim.***
- d. Costs in the cause.***

Dated, signed and delivered electronically at Nakuru, pursuant to Rule 68 [5] of the E&LRC [Procedure] Rules, 2024, this 28<sup>th</sup> day of November 2025.

James Rika

Judge

