



**Murumba v Kenya Power & Lighting Company (KPLC); Musana (Interested Party)  
(Civil Case E001 of 2024) [2025] KEHC 19206 (KLR) (18 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 19206 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPENGURIA  
CIVIL CASE E001 OF 2024  
RPV WENDOH, J  
DECEMBER 18, 2025**

**BETWEEN**

**GEORGE MURUMBA ..... PLAINTIFF**

**AND**

**KENYA POWER & LIGHTING COMPANY (KPLC) ..... DEFENDANT**

**AND**

**BISMACK MEISI MUSANA ..... INTERESTED PARTY**

**RULING**

1. The plaintiff herein George Murumba filed this suit against the defendant Kenya Power & Lighting Company Ltd and Bismack Meisi Musana is the interested party vide plaint dated 29/11/2025. He brought the following prayers:-
  - a. A declaration that the defendant has violated the terms of agreement for supply of electricity.
  - b. An order that the defendant immediately reconnects electricity on LR. No. West Pokot/Siyoi "A"/1815 and allows the plaintiff and his tenant a quiet possession and uninterrupted use of electricity on the said premises provided that the same is paid for according to the respective tariffs.
  - c. General damages for the breach by the defendant of the agreement for supply of electricity and any other loss caused and occasioned by the actions of the defendant.
  - d. An order of mandatory injunction directed at the defendant to immediately rectify its records with respect to all the property known as LR. No. Kajiado/Kaputel-North/22439 by removing the details of the plaintiff and replacing with those of the interested party as the property and the person responsible for the said.



2. Filed simultaneously with the plaint was the application of even date seeking the following orders:-
  - a. Spent.
  - b. Spent.
  - c. That the defendant be retrained by itself, its agents or servants or any other person whatsoever acting for it from in any way disconnecting, stopping electricity supply or interfering with the plaintiff's use of electricity or connectivity in all that property known as LR. No. West Pokot/Siyoi "A"/1815 situated within Kapenguria township in West Pokot County pending the hearing and determination of this application.
  - d. That the defendant be retrained by itself, its agents or servants or any other person whatsoever acting for it from in any way disconnecting, stopping electricity supply or interfering with the plaintiff's use of electricity or connectivity in all that property known as LR. No. West Pokit/siyoi "A"/1815 situated within Kapenguria township in West Pokot County until further orders of this Honourable Court.
3. The defendant responded to the plaint and application by filing the following:-
  1. Statement of defence dated 13/11/2024.
  2. Grounds of opposition dated 13/11/2024.
  3. Notice of preliminary objection dated 13/11/2024.
  4. Submissions dated 20/6/2025 in support of the preliminary objection.
4. The court gave directions on the disposal of the preliminary objection. On 23/10/2025 counsel for the plaintiff Mr. Aguko informed the court that the suit had been overtaken by events and requested to have the same marked as settled. Mr. Ododa counsel for the defendant did not oppose the withdrawal of the said but prayed not to be granted the costs. When the parties would not agree on the issue of costs this court directed that the parties file submissions on the issue of costs only which they have done.
5. The plaintiff's submissions are dated 31/10/2025 in which the counsel gave a factual background of the case. He submitted that the plaintiff owned two properties in Kajiado County and West Pokot County; that in early 2024 the plaintiff sold the property in Kajiado to the interested party but retained the property in West Pokot, Kapenguria which is the basis of the suit; that upon selling the property to the interested party, he settled all the outstanding bills with the defendant and notified the defendant of the change of ownership and the defendant was supposed to rectify its records; that the interested party failed to pay his bills and the defendant punished the plaintiff by switching off connection of power to the property in Kapenguria yet the plaintiff did not owe the defendant any money; that the interested party quietly disposed of the contentious property in Kajiado county whose outstanding bills were the reason for this suit.
6. That it is the defendant's failure to effect change in its records from the plaintiff to the interested party that occasioned the filing of this suit and the suit became overtaken by events after the interested party informed the plaintiff of the sale that the defendant rectified its records; that despite the defendant knowing of the change in records did not inform the court till the plaintiff did so on 23/10/2025.
7. Counsel submitted that though Section 27 of the *Civil Procedure Act* provides that costs should follow the even courts have held that the court has the discretion to depart from that principle for good reasons which includes the conduct of the parties at the stage of the withdrawal of the suit. He relied on the decision of Rai & 3 others -vs- Rai & 4 others [2014] KESC 31 [KLR] and Halsbury's Laws of England;



4<sup>th</sup> Edition (Re-issue), [2010], Vol. 10. Para 16 which emphasized the discretion of the court in award of costs. In *Mohamed & Another -vs- Kenya Copyright Board & 2 others* [JR] E107/2023 [2025] KEHC 4229 the court set out the factors to be considered in the exercise of the discretion to award costs.

8. The plaintiff urged the court to consider the fact that the defendant is a public body, funded by the tax payer of which the plaintiff is one; that they used an inhouse counsel who is paid from public coffers and additional costs were not incurred.
9. In response, the defence counsel urged that it is the plaintiff who dragged the defendant to court without justification and that during the pendency of the suit, the plaintiff kept saying they intended to engage the defendant in out of court negotiations but that never materialized; that the defendant has never engaged the plaintiff in any negotiations and that the plaintiff kept the defendant in court for a full year knowing that the issue was between the plaintiff and the interested party; that having kept the plaintiff in court for so long, the defendant is entitled to costs.
10. Counsel relied on Section 27 of the *Civil Procedure Act* where it is provided costs must follow the event and that in *Kenya Sugar Board -vs- Ndungu Gathini* [2013] eKLR, the court held that the exercise of discretion in award of costs should be applied judiciously. He also relied on *Haraf Traders Ltd -vs- Narok County Government* [2022] eKLR which cited *Republic -vs- Rosemary Wairimu Munene, Ex-parte Applicant JR 6/2014* where the court observed that the losing party has to compensate the successful party for the trouble taken in presenting the case. He also cited *Cecilia Karuru Ngayu -vs- Barclays Bank of Kenya & Another* [2016] eKLR where the court observed that the court should consider the court attendances and all events from the time of filing of the suit.
11. I have considered the submissions of both counsel. The issue here is whether the defendant is entitled to the costs of this suit. Section 27 (1) *Civil Procedure Act* governs the award of costs. It provides as follows:-

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.

12. Under the above section, the award of costs is the exercise of the court's discretion and the general principle is that the courts follow the event unless the court for good reason orders otherwise. The said discretion must be exercised judiciously. *Halsbury's Laws of England*; 4<sup>th</sup> Edition (Re-issue), [2010], Vol. 10. Para 16 had this to say in award of costs:-

“The court has discretion as to whether costs are payable by one party to another, the amount of those costs, and when they are to be paid. Where costs are in the discretion of the court, a party has no right to costs unless and until the court awards them to him, and the court has an absolute and unfettered discretion to award or not to award them. The discretion must be exercised judicially; it must not be exercised arbitrarily but in accordance with reason and justice”.



13. Justice Kuloba (retired) in his book *Judicial Hints on Civil Procedure* 2<sup>nd</sup> edition Pg 94 on the “costs follow this event” said “The words “the event” mean the:-

“Costs are [awarded] at the unfettered discretion of the court, subject to such conditions and limitations as may be prescribed and to the provisions of any law for the time being in force, but they must follow the event unless the court has good reason to order otherwise...”

14. In the Rai case (supra), the court observed that the “good reason” that justify the departure from the general rule of costs following the event vary from case to case. The court said there was no prescribed definition of any set of “good reasons” that can justify a court’s departure, in awarding costs, from the general rule, of “costs follow the event”. In the classic common law style, the courts have proceeded on a case-by-case basis to identify good reasons for such departure. An examination of evolving practices on that question shows that, as an example, matters in the domain of public interest litigation tend to be exempted from the award of costs.”

15. Justice Aburili in the case of Hatibu Muhammad Abdalla case (supra) listed some of the factors to be considered like conduct of the parties, subject of litigation, the circumstances which led to the institution of the proceedings; the events that eventually led to their termination; the stage at which the proceedings were terminated, relationship between the parties and the need to promote reconciliation between the parties.

16. When the plaintiff’s counsel applied to withdraw the case the defence counsel did not object. The dispute is therefore on the award of costs. Otherwise, the said suit is marked as settled.

17. Since the case did not proceed to hearing the court did not have the benefit of hearing both sides and deciding the case on merit. However, the plaintiff in his submissions gave the background of the case which facts were undisputed. Clearly, the conduct of the defendant aggrieved the plaintiff prompting the filing of this case. Even if the plaintiff did not file his complaint before the correct forum, the defendant cannot claim to be blameless in the plaintiff moving the court for redress. It is the plaintiff’s counsel who may have filed the plaint in the wrong forum and the plaintiff would not be wholly to blame for that. All factors considered all who come to equity must come with clear hands.

18. This matter was filed in October, 2024. The defendant filed this defence and notice of preliminary objection in November, 2024. The parties indicated that there was possibility of settlement and by May, 2025, the defence counsel indicated that the plaintiff had not come up with any proposal. The court then gave directions on how the preliminary objection would be disposed of, by way of written submissions. After then, the plaintiff’s counsel applied to have the suit marked as settled as the subject premises had been sold by the interested party and that the defendant had then corrected its records, a fact the defendant did not bring to the attention of the court. In my view neither party can be blamed for the period the case spent in court before the withdrawal of the case.

19. The defendant is a public corporation offering services of supply of electricity to the public, the plaintiff being one of its clients. Their relationship will still continue even after this case.

20. Having taken the factors into account, view and doing my best to balance the interests of both parties, it is only fair that each party bears its own costs. It is so ordered.

**DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 18<sup>TH</sup> DAY OF DECEMBER, 2025**

**R. WENDOH**

**JUDGE**



Ruling delivered in the presence of:-

For the plaintiff

For the defendant

Juma/Hellen – Court Assistants

