



Seroney & 5 others v County Government of Nandi (Environment and Land Case E017 of 2024) [2025] KEELC 5628 (KLR) (24 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5628 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND CASE E017 OF 2024
GMA ONGONDO, J
JULY 24, 2025**

BETWEEN

- SAMWEL KIPKEMBOI SERONEY 1ST APPLICANT**
- SOLOMON JOSHUA K KOGO KEMBOI 2ND APPLICANT**
- TERESA CHEMATIA KEMBOI 3RD APPLICANT**
- DISMAS KIPKOECH 4TH APPLICANT**
- RODGERS ROP 5TH APPLICANT**
- TRANS-ELITE COUNTY SAVINGS AND CREDIT CO-OPERATIVE SOCEITY LIMITED FORMERLY KNOWN AS NANDI TEACHERS SAVINGS AND CREDIT CO-OPERATIVE SOCIETY LIMITED 6TH APPLICANT**

AND

COUNTY GOVERNMENT OF NANDI RESPONDENT

RULING

1. The Six applicants through learned counsel Ms Koech, have raised an objection to the admission of the replying affidavit sworn on 23rd July 2025 by Dr Francis K. Sang, the County Secretary and Head of the County Service for the Respondent in response to applicants’ application by way of Notice of Motion dated 5th June 2025 on the basis that the replying affidavit was filed and served outside the set timelines.
2. It is the applicants’ lamentation in part that by the replying affidavit was served yesterday hence, late response to the application. That therefore, the said affidavit be expunged from the record and the application be deemed as unopposed.



3. By the application, the applicants are seeking to cite for contempt, the deponent to the replying affidavit and another in respect of the orders of the court given on 17th October 2024 and issued on 28th October 2024.
4. Mr Kogo learned counsel for the respondent stated that that the deponent to the replying affidavit could not execute the replying affidavit within the stipulated timelines as he was on leave. That on return, he got engaged with the Senate until yesterday when he executed the affidavit. That the application is weighty and that the replying affidavit be admitted to give a chance to the cited contemnors to respond to the application in the ends of justice herein.
5. In rejoinder, counsel Koech stated, *inter alia*, that if the deponent of the replying affidavit was on leave which is not proved, then his co-respondent, the County Executive Committee member ought to have responded to the application timeously. That if the court grants the respondents an opportunity to respond to the application, let them comply with the court orders and the applicants be granted leave to file and serve further affidavit.
6. In the foregone, is the objection to the replying affidavit sustainable?
7. I take into account the nature of the application generated under, inter alia, Order 51 of the Civil Procedure Rules 2010. Notably, Order 50 of the same Rules, governs time.
8. It is borne in mind that the replying affidavit is duly served. I find the explanation for delay in filing and service of the same satisfactory in the circumstances.
9. This court is guided by the ends of justice under Articles 48, 50 (1) and 25 (c) of the Constitution of Kenya 2010 as well as section 3 of the Environment and Land Court Act 2015 (2011).
10. It is well established that the right to be heard is fundamental and permeates the entire justice system; see James Kanyita Nderitu & another-vs-Marios Philotas Ghikas & another (2016) eKLR.
11. In the premises, it would be in the ends of justice to let the respondent reply to the application by the replying affidavit duly served herein; see also Philip Chemwolo & another-vs-Augustine Kubende (1986) eKLR.
12. Accordingly, the objection to the replying affidavit is devoid of merit. The same fails and I hereby direct thus;
 - a. The duly served replying affidavit sworn on 23rd July 2025, is admitted as a response to the application.
 - b. The applicant's counsel to file and serve further affidavit to the replying affidavit within 21 days from this date.
 - c. The parties to comply with Order 11 of the Civil Procedure Rules 2010 within the next 21 days from this date.
 - d. This matter is set for 1st October 2025 to confirm compliance and for directions.
13. Orders accordingly

DATED AND DELIVERED AT KAPSABET THIS 24TH DAY OF JULY 2025

G M A ONGONDO

JUDGE



Present

Ms Koech learned counsel for the applicants

Mr Kogo learned counsel for the respondent

Walter, court assistant

