



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC SUIT NO.109 OF 2015**

**JOHN KENNEDY MONYONCHO.....1<sup>ST</sup> PLAINTIFF**

**RACHEL MUGA MONYONCHO.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**WHITEMEG INDUSTRIES LIMITED.....1<sup>ST</sup> DEFENDANT**

**ZAVERCHAND RAMJI SHAH.....2<sup>ND</sup> DEFENDANT**

**MOHENDRA RAMJI SHAH.....3<sup>RD</sup> DEFENDANT**

**KISAUNI PROPERTIES LIMITED.....4<sup>TH</sup> DEFENDANT**

**CHARLES UKUMU MALUKI.....5<sup>TH</sup> DEFENDANT**

**REGISTRAR OF TITLES.....6<sup>TH</sup> DEFENDANT**

**THE HON. ATTORNEY GENERAL.....7<sup>TH</sup> DEFENDANT**

**RULING**

**Introduction:**

The application before me was brought by the 1<sup>st</sup> and 5<sup>th</sup> defendants (1<sup>st</sup> and 2<sup>nd</sup> defendants in the original plaint) by way of Notice of Motion dated 11<sup>th</sup> November, 2015 under Order 2 rule 15(b) and(d) of the Civil Procedure Rules, 2010, sections 1A, 1B and 3A of the Civil Procedure Act seeking the following orders:

1. Spent.
2. That the plaint and the application for injunction filed herein by the plaintiffs be struck out and the suit dismissed.
3. That the plaintiffs be barred by way of injunction from filing any new suit in any court with original jurisdiction relating to Land Reference Number 4242/41 (hereinafter referred to as “the suit property”).
4. That the suit is an abuse of court process.
5. The costs of the application to be paid by the plaintiffs and their advocates on record.

**The 1<sup>st</sup> and 5<sup>th</sup> defendants’ case:**

The application was brought on the grounds set out on the face thereof and on the supporting affidavit of the 1<sup>st</sup> and 5<sup>th</sup> defendant’s advocate, Mugambi Manyara sworn on 11<sup>th</sup> November, 2015. The 1<sup>st</sup> and 5<sup>th</sup> defendants (hereinafter referred to only as the “applicants”) have contended that prior to the filing of this suit, the plaintiffs had filed Nairobi HCCC No. 349 of 2007 which is pending determination, Nairobi ELCC No. 79 of 2012 that was dismissed for want of prosecution and Nairobi ELCC No.78 of 2015 that was dismissed for being an abuse of the court process. The applicants have contended that the aforementioned suits were filed against the defendants herein and concerned the same subject matter namely, the suit property.

The applicants have averred that the plaintiffs had appealed against the dismissal of ELCC No.79 of 2012 and their appeal was similarly dismissed by the Court of Appeal. The applicants have averred that the plaintiffs did not appeal against the dismissal of ELCC No. 78 of 2015. The applicants have contended that while filing the current suit, the plaintiffs did not disclose to the court the aforementioned suits. The applicants have contended that this suit is not only *res judicata* but is also an abuse of the court process.

The applicants have contended that the plaintiff's statement in the plaint that there have been no other proceedings in any court between the parties herein over the same subject matter amounted to perjury in view of the existence of the aforementioned suits. The applicants have contended that the filing of multiple suits by the plaintiffs against the applicants over the same subject matter has been prejudicial to the applicants who have had to incur unnecessary legal costs. The applicants have contended that the plaintiff's conduct aforesaid has also resulted in wastage of judicial time. The applicants have contended that public policy demands that litigation must come to an end. The applicants have urged the court to strike out the suit with costs.

#### The plaintiffs' case:

The application was opposed by the plaintiffs through a replying affidavit sworn by the 1<sup>st</sup> plaintiff on 10<sup>th</sup> December, 2015. The plaintiffs have admitted that prior to the filing of this suit they had filed Nairobi HCCC No. 349 of 2007 and ELCC No.79 of 2012. The plaintiffs have contended however that the parties in the two suits are not the same as the parties herein. The plaintiffs have denied that their appeal against the dismissal of ELCC No. 79 of 2012 was dismissed by the Court of Appeal. The plaintiffs have contended that contrary to the applicants' assertion that the appeal was dismissed, they are the ones who withdrew the notice of appeal that they had filed against the said decision. The plaintiffs have averred that what was dismissed was their application for stay pending appeal and not the appeal itself that was never filed. On the allegation that they are guilty of concealment of material facts and perjury, the plaintiffs have averred that they disclosed in their plaint the existence of Nairobi HCCC No. 349 of 2007 and ELCC No. 79 of 2012.

The plaintiffs have denied that this suit is *res judicata*. The plaintiffs have contended that ELCC No. 79 of 2012 and ELCC No. 78 of 2015 did not involve the same parties as the suit herein and furthermore, the two suits were not heard and determined on merit. They have averred that ELCC No. 79 of 2012 was dismissed for want of prosecution while ELCC No. 78 of 2015 was dismissed for being an abuse of the court process. The plaintiffs have contended that there has never been a suit between the parties that has been heard and finally decided on merit.

The plaintiffs have contended that the dismissal of ELCC No. 79 of 2012 was not a bar to the filing a fresh suit. The plaintiffs have contended that they had a right to file a fresh suit subject only to the law of limitation. With regard to ELCC No. 78 of 2015, the plaintiffs have contended that the suit was dismissed summarily even before summons was served upon the defendants. The plaintiffs have contended that suit is deemed not to have existed since the defendants were never served with summons and did not enter appearance. The plaintiffs have contended that the application before the court is aimed at denying them their constitutional right to a fair hearing by enabling the applicants to evade full trial of the substantive suit. The plaintiffs have urged the court to dismiss the application which they have termed as an abuse of court process.

#### The submissions:

The application was argued by way of written submission. The applicants filed their submissions on 19<sup>th</sup> January, 2016 while the plaintiffs filed their submissions in reply on 19<sup>th</sup> July, 2017. In their submissions, the applicants have submitted that Order 4 rule 1(1) (f) of the Civil Procedure Rules enjoins all parties filing suits to disclose both pending and previous proceedings involving the same parties. The applicants have submitted that the plaintiffs had an obligation to disclose all previous proceedings which were related to the present suit. The applicants have submitted that the failure by the plaintiffs to disclose all the previous cases they had brought against the applicants amounted to perjury which leaves the court with no option but to strike out the suit.

In their submissions in reply, the plaintiffs have submitted that the applicants have not met the threshold for a plea of *res judicata*. The plaintiffs have referred to section 7 of the Civil Procedure Rules and the case of Kenya Hotel Properties Limited vs. Willisden Investments Ltd. & 6 others [2013]eKLR, and submitted that for the doctrine of *res judicata* to apply, the matter raised in the suit must have been directly and substantially in issue a previous suit; the parties must be the same and the matter must have been finally decided in the previous suit. The plaintiffs have submitted that the previous suits that they had filed did not involve the parties in the present suit and that ELCC No. 79 of 2012 and ELCC No. 78 of 2015 were dismissed on technicalities without full hearing. The plaintiffs have submitted that since the previous suits were not between the same parties as the present suit and those that were dismissed were not determined conclusively on merits, the present suit cannot be *res judicata*. The plaintiffs have submitted further that the dismissal of a suit for want of prosecution is not in itself a bar to the filing of a fresh suit. In support of this submission, the plaintiffs relied on the case of Lilian Njeri Muraya & another vs. Virginia Nyambura Ndiba & another [2014]eKLR.

On the issue of perjury, the plaintiffs have submitted that, in their amended plaint, they have fully disclosed the existing and the previous suits which they had filed concerning the suit property. The plaintiffs have submitted that even if they had breached the provisions of Order 4 rule 1(1) (f) of the Civil Procedure Rules, the breach is curable by amendment. The plaintiffs have referred to the case of Vista Holdings international Ltd vs. Span image (K) 2012 eKLR where the court stated that:

*"I am not satisfied that the plaintiff has breached the mandatory provision of Order 4 rule(1)(of the Civil Procedure Rules). If there have been minor breaches then such are curable by way of amendment at least to the plaint".*

The plaintiffs have reiterated that it was not necessary for them to disclose ELCC No. 78 of 2015 because the defendants in that case were not served with summons and as such there was no competent suit against the defendants. The plaintiffs have submitted that in the circumstances, the provisions of Order 4 rule (1) of the Civil Procedure Rules was not breached in relation to ELCC No. 78 of 2015. In support of this submission, the plaintiffs cited the case of Grace Wirimu Mungai vs. Catherine Njambi Muya [2014]eKLR.

In conclusion, the plaintiffs have submitted that the striking out of a suit is a draconian remedy which drives away the plaintiff from the seat

of justice. The plaintiffs have submitted that the power to strike out a suit which is discretionary must be exercised cautiously, sparingly and only in clearest of cases. The plaintiffs have cited the cases of Nancy Mwangi t/a Worthlin Marketers vs. Airtel Networks (K) Ltd (Formerly Celtel Kenya Ltd) & 2 others [2014] eKLR, and D.T. Dobie & Company (Kenya)Ltd. vs. Muchina [1982] KLR 1.

Analysis and determination:

The applicants' application as I have stated earlier was brought under Order 2 rule 15(b) and (d) of the Civil Procedure Rules. The said rules empower the court to strike out any pleading which is scandalous, frivolous or vexatious and which is otherwise an abuse of the process of the court. What I need to determine is whether the applicants have established valid grounds to warrant the striking out of the amended plaint filed herein together with the injunction application that was anchored thereon.

I am in agreement with the plaintiffs that the striking out of a suit is a draconian remedy and that the power should be exercised by the court with great caution and only in clearest of cases. See the case of, Raghbir Singh Chatte vs. National Bank of Kenya Ltd.[1996]eKLR. See also the case of, D.T. Dobie & Company (K) Ltd. vs. Muchina(supra), where Madan J.A stated as follows regarding the exercise of the power to strike out pleadings;

*“No suit ought to be summarily dismissed unless it appears so hopeless that it plainly and obviously discloses no reasonable cause of action and it is so weak as to be beyond redemption and incurable by amendment.”*

In the case of, Murri vs. Murri and another [1991] E.A 209(CAK), the Court of Appeal held that summary remedy of striking out pleadings is applicable whenever it can be shown that the action is one which cannot succeed or is in some way an abuse of the court process or is unarguable. In the case of, J.P. Machira vs. Wangethi Mwangi [1998] eKLR, Omolo J.A, stated as follows on the power of striking pleadings:

*“I do not think the unfettered power in the courts to allow amendments at any stage is to be used to enable the parties to create all sorts of fanciful defences in the course of litigation. Nor do I understand the decision of this court, particularly that of Madan J.A in the case of D.T. Dobie & Company(Kenya) Ltd. vs. Joseph Mbaria Muchina & another, Civil Appeal, No. 37 of 1978(unreported) to mean that no pleading could ever be struck out even where it is patently clear that no useful purpose could ever be served by a trial on merits.....I agree that these powers are drastic and as the court said.....the powers are to be exercised with great caution and only in clearest of cases. But once such caution has been exercised and it is perfectly clear that no useful purpose would be served by a trial on the merits, the court is perfectly entitled to strike out a pleading for as I have said, there is no magic in holding a trial on the merits particularly where it is obvious to everyone that no useful purpose would be served by it.”*

In the book, Pleadings: Principles and Practice by Sir Jack Jacob and Iain S. Goldrein, the authors have stated that a pleading or an action is frivolous when it is without substance or unarguable. Examples of pleadings which are frivolous are given as, those which are put forward to waste the court's time and those which cannot possibly succeed. On the other hand, a vexatious pleading or action is defined in the said book as a pleading or action which lacks *bona fides*, is hopeless or oppressive and tends to cause the opposite party unnecessary anxiety, trouble and expense. Borrowing still from the same book, a pleading or action which is an abuse of the process of the court is defined as one which is pretenceless or absolutely groundless.

The applicants have contended that the plaintiffs' suit and the application for injunction are frivolous, vexatious and an abuse of the process of the court because prior to the filing of the suit, the plaintiffs had filed three (3) previous suits over the same subject matter against the same parties herein namely, Nairobi HCCC No. 349 of 2007, Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015. The applicants have contended that Nairobi HCCC No. 349 of 2007 is still pending hearing and determination while Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015 were dismissed, the former for want of prosecution and the latter as an abuse of the process of the court.

The applicants have contended that the plaintiffs failed to disclose the existence of the said suits to the court when they filed this suit. The applicants have contended that this suit is not maintainable while Nairobi HCCC No. 349 of 2007 is still pending and after the dismissal of Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015. The applicants have argued that the suit herein is *res judicata* and amounts to an abuse of the process of the court.

The plaintiffs have admitted having filed the three (3) cases mentioned by the applicants. The plaintiffs have also admitted that Nairobi HCCC No. 349 of 2007 is still pending while Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015 were dismissed. The plaintiffs have admitted that Nairobi ELCC No. 79 of 2012 was dismissed for want of prosecution while Nairobi ELCC No. 78 of 2015 was dismissed as an abuse of the process of the court on the ground that the same was brought while Nairobi HCCC No. 349 of 2007 was still pending. The plaintiffs have also admitted that they have not preferred any appeal against the decisions of the court in Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015. The plaintiffs answer to the application is that the three (3) cases did not involve the parties to this suit. The plaintiffs have also contended that Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015 were not heard and determined on merit so as to create a bar to the filing of this suit under the doctrine of *res judicata*. The plaintiffs have also contended that they were at liberty subject only to the law of limitation to bring a fresh suit after the dismissal of Nairobi ELCC No. 79 of 2012 and Nairobi ELCC No. 78 of 2015.

I have considered the material on record relating to the three (3) suits referred to above. I have noted that the dispute in Nairobi HCCC No. 349 of 2007 revolved around the ownership of the suit property and that the parties were the plaintiffs herein, the 1<sup>st</sup> defendant (applicant) herein and one, Imu Mohamed Bakari. In the suit, the plaintiffs sought injunction restraining the 1<sup>st</sup> defendant herein and the said Imu Mohamed Bakari from selling, constructing on, dealing with or in any other manner whatsoever interfering with the suit property and a declaration that the plaintiffs were the bona fide purchasers of the suit property. In that suit, the plaintiffs brought an application for a temporary injunction restraining the 1<sup>st</sup> defendant herein and the said Imu Mohamed Bakari from selling, constructing on, dealing with or in any other manner whatsoever interfering with the suit property pending the hearing of the suit. The plaintiffs' application for injunction was

heard inter parties and allowed by Azangalala J. on 28<sup>th</sup> February, 2008. There is no evidence before me that the injunction that was granted in favour of the plaintiffs in that suit has been set aside.

Nairobi ELC No. 79 of 2012 also involved a dispute over the suit property. The parties to that suit were the plaintiffs herein and the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein. The only parties to the present suit who were not parties to Nairobi ELCC No. 79 of 2012 are the 3<sup>rd</sup> and 7<sup>th</sup> defendants. In this suit like in Nairobi HCCC No. 349 of 2007, the plaintiffs sought among others, injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein from selling, constructing on, dealing with or in any other manner whatsoever interfering with the suit property. In that case also, the plaintiffs sought a temporary injunction against 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein pending the hearing of the suit. The plaintiffs' application was heard and allowed by Nyamweya J. on 27<sup>th</sup> July, 2012. Pursuant to that order, the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein were restrained from selling, constructing on, disposing of or in any way whatsoever alienating the suit property herein pending the hearing and determination of the suit or further orders by the court. Nairobi ELCC No. 79 of 2012 was dismissed by Gitumbi J. on 4<sup>th</sup> July, 2014 for want of prosecution.

Nairobi ELC No. 78 of 2015 also concerned a dispute over the suit property. The parties to this suit were the 1<sup>st</sup>, 5<sup>th</sup> and 7<sup>th</sup> defendants herein. I have not had sight of the plaint that was filed in this case to ascertain the reliefs that the plaintiffs had sought. The plaintiffs also brought an application for a temporary injunction to restrain the 1<sup>st</sup>, 5<sup>th</sup> and 7<sup>th</sup> defendants from having any dealing with the suit property pending the hearing of the suit. The application for injunction came up for hearing before Gitumbi J. ex parte on 4<sup>th</sup> February, 2015 who dismissed the entire suit as an abuse of the process of the court on the grounds that a similar suit namely, Nairobi HCCC No. 349 of 2007 was still pending while another similar suit that had been brought by the plaintiffs namely, Nairobi ELCC No. 79 of 2012 had been dismissed for want of prosecution.

From what I have set out above, my view on the matter is that the plaintiffs having filed Nairobi HCCC No. 349 of 2007 in which they succeeded in obtaining interlocutory injunction, the subsequent suits were unnecessary and uncalled for. The plaintiffs should have simply amended Nairobi HCCC No. 349 of 2007 and added additional parties instead of filing new suits. I have also noted that all the persons who were defendants in Nairobi ELC No. 79 of 2012 that was dismissed for want of prosecution have been joined in the present suit as 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants. In fact, the current suit is similar in all respects to Nairobi ELCC No. 79 of 2012 save that the plaintiffs have added two additional parties. Two issues arise here. First, I am not in agreement with the plaintiffs that when a defendant in a suit files an application for the dismissal of a suit for want of prosecution under Order 17 rule 2(3) of the Civil Procedure Rules and succeeds, the plaintiff whose suit has been dismissed has a right to bring a new suit on the same cause of action subject only to Limitation of Actions Act, Chapter 22 Laws of Kenya. I am of the considered view that if the position articulated by the plaintiffs was to hold sway, it would completely defeat the purpose of Order 17 rule 2 of the Civil Procedure Rules which is to rid the courts of stale suits in which parties have lost interest.

I have considered the case of Lilian Njeri Muraya & another vs. Virginia Nyambura Ndiba & another [2014] eKLR that was cited by the plaintiffs in support of their submission on this issue. I am of the view that the decision in that case is distinguishable for the reason that the attention of the court was not drawn to the changes that came with the Civil Procedure Rules, 2010 with regard to the dismissal of suits for want of prosecution. The judge in my view made his decision based on the old Civil Procedure Rules.

I am of the view that the plaintiffs' argument before me was based on Order XVI rule 6 of the old Civil Procedure Rules which provided as follows:

*"In any case not otherwise provided for in which no application is made or step taken for a period of three years by either party with a view to proceeding with the suit, the court may order the suit to be dismissed; and in such case the plaintiff may, subject to the law of limitation, bring a fresh suit".*

This rule was omitted in the Civil Procedure Rules, 2010 which is in force. I believe that the omission of the rule by the rules committee was intentional for the reasons I have given above. In any event, even under Order XVI rule 6 of old Civil Procedure Rules, it was only in instances where a suit was dismissed by the court on its own motion after it had remained inactive for three years that the plaintiff could bring a new suit subject to the law of limitation. The window was not open for all cases where a suit was dismissed for want of prosecution.

For the foregoing reasons, I am of the considered view that after the plaintiffs suit against the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein namely Nairobi ELCC No. 79 of 2012 was dismissed for want of prosecution by Gitumbi J. on 4<sup>th</sup> July, 2014, it was not open for the plaintiffs to bring the present suit which is based on the same cause of action against the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein. The position I have taken on this issue finds support in the decision of Gitumbi J. that was made on 4<sup>th</sup> February, 2015 in Nairobi ELCC No. 78 of 2015. Gitumbi J. dismissed that suit summarily as an abuse of the process of the court for among other reasons, that a similar suit involving the same parties over the same cause of action namely, Nairobi ELC No. 79 of 2012 had been dismissed for want of prosecution. As I have stated earlier, the plaintiffs did not appeal against the decision of Gitumbi J. in Nairobi ELCC No. 78 of 2015.

The second issue arising out of Nairobi ELC No. 79 of 2012 is the effect of the injunction order that was granted in favour of the plaintiffs by Nyamweya J. on 27<sup>th</sup> July, 2012 against the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein on the new injunction application that has been brought against the same parties in this suit. I am in agreement with the applicants that the application for injunction pending in the present suit as against 5<sup>th</sup> defendant is *res judicata*. As I have mentioned herein earlier, save for the addition of two new parties, the present suit is in all respects similar to Nairobi ELCC No. 79 of 2012. The parties and the causes of action are substantially the same. The present application for injunction is directed at the 5<sup>th</sup> defendant (2<sup>nd</sup> defendant/applicant in the original plaint). The injunction sought is to restrain him from selling, constructing, dealing with, disposing of or in any way whatsoever alienating or interfering with the suit property. This is the same order which the plaintiffs had sought in the injunction application they had filed in Nairobi ELCC No. 79 of 2012 and which was granted by Nyamweya J. on 27<sup>th</sup> July, 2012 against among others, the 5<sup>th</sup> defendant herein. The plaintiffs' present application which is over the same cause of action and against the same party is *res judicata*.

The applicants had also contended that the plaintiffs had committed perjury by their failure to disclose the previous cases mentioned above that they had filed against the defendants. I am not in agreement with the applicants' contention. First, I have noted that a part from Nairobi ELCC No. 78 of 2015, the plaintiffs disclosed all other cases they had filed against the defendants in the original plaint and in the amended plaint that was filed on 11<sup>th</sup> April, 2015. Secondly, it has not been demonstrated that failure to disclose Nairobi ELCC No. 78 of 2015 was intentional and was meant to mislead the court. Finally, I am in agreement with the plaintiffs that the omission in the circumstances of this case is not fatal to the suit. The same can be cured by an amendment.

In the final analysis, I have come to the conclusion that the plaintiffs' suit herein is frivolous, vexatious and an abuse of the process of the court for the following reasons. First, the plaintiffs should not have brought this suit while Nairobi HCCC No. 349 of 2007 was pending. Secondly, the plaintiffs had no right to file this suit after Nairobi ELCC No. 79 of 2012 was dismissed for want of prosecution. Thirdly, this suit was filed in defiance of the orders that were issued by Gitumbi J. in Nairobi ELCC No. 78 of 2015. Gitumbi J. having made a finding that it was an abuse of the process if the court for the plaintiffs to bring a new suit while Nairobi HCCC No. 349 of 2007 was pending and after the dismissal of Nairobi ELC No. 79 of 2012 for want of prosecution, it was not open to the plaintiffs to bring another suit while the said order by Gitumbi J. was subsisting. The injunction application dated 11<sup>th</sup> February, 2015 pending herein against the 5<sup>th</sup> defendant (2<sup>nd</sup> defendant/applicant) like the suit on which it is based is an abuse of the process of the court. The same is also *res judicata* as I have observed above.

For the foregoing reasons, I am satisfied that the applicants' application dated 11<sup>th</sup> November, 2015 is well founded. The application is allowed in terms of prayer 2 thereof. The amended plaint dated 10<sup>th</sup> April, 2015 and the Notice of Motion dated 11<sup>th</sup> February, 2015 are hereby struck out with costs to the defendants. The applicants shall have the costs of the application.

**Delivered and Signed at Nairobi this 2<sup>nd</sup> day of March, 2018**

**S. OKONG'O**

**JUDGE**

**Ruling read in open court in the presence of:**

No appearance for the Plaintiff

Ms. Mureithi h/b for Imanyara for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants

No appearance for the 4<sup>th</sup> Defendant

No. appearance for the 5<sup>th</sup> Defendant

No appearance for 6<sup>th</sup> and 7<sup>th</sup> Defendants

Catherine Court Assistant