



Mokobi v Ondora & 3 others (Environment and Land Miscellaneous Application E011 of 2023) [2024] KEELC 500 (KLR) (31 January 2024) (Ruling)

Neutral citation: [2024] KEELC 500 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E011 OF 2023
JM KAMAU, J
JANUARY 31, 2024**

BETWEEN

ALFRED OMUNDI MOKOBI APPLICANT

AND

MONGINA ONDORA 1ST RESPONDENT

NYABERI ONDORA 2ND RESPONDENT

MACHIEWA ONDORA 3RD RESPONDENT

MAGIKA ONDORA 4TH RESPONDENT

RULING

1. Before me is a Motion dated 30/11/2023 for orders that the Applicant be granted leave to file an Appeal out of time from the Ruling of the Honourable C. Ombija, SRM Keroka in Keroka Principal Magistrate’s Court Civil Case No. 42 of 2019. The Ruling is dated 20/9/2023. The Applicant has given his ground of the Application as that the day the Judgment was delivered, his Advocate Mr. S. M. Sagwe was sick. The case was dismissed with costs for non-attendance on the part of both Counsel.
2. The Respondents through their Advocate, Cleveland M. Mwebi filed a Replying Affidavit sworn on 10/1/2024 opposing the Application on the ground that the suit was not only dismissed for non-attendance but also for want of prosecution. This was on 27/10/2021.
3. He went on to say that between 13/11/2019 and 27/10/2021, a period of about 2 years the Applicant had not taken any steps to prosecute the suit and that a similar Application for setting aside the Lower Court orders was filed on 9/6/2023 which was similarly dismissed. Another one was filed by the Applicant in on 1/11/2023. The same is for Review of the Lower Court’s orders. It is yet to be heard. This being the case the Applicant must decide what he wants. He must wait for the Application dated



1/11/2023 in the Lower Court to be heard and determined before coming to this Court. Secondly, there is no draft Memorandum of Appeal to at least show whether there is any intended appeal at all.

Accordingly, this Application is disallowed with costs.

RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 31ST DAY OF JANUARY 2024.

MUGO KAMAU

JUDGE

In the presence of*:

C/A: Brenda

Mr. Sagwe for the Applicant

No appearance for the Respondents

