



Mugwe v Ojwang & 4 others (Environment and Land Miscellaneous Application E005 of 2023) [2024] KEELC 380 (KLR) (31 January 2024) (Ruling)

Neutral citation: [2024] KEELC 380 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT BUSIA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E005 OF 2023
BN OLAO, J
JANUARY 31, 2024**

BETWEEN

ZAKARIA MWANIKI MUGWE PLAINTIFF

AND

BENARD OJWANG 1ST DEFENDANT

SUSAN AYITE OWANG 2ND DEFENDANT

SHARON OJWANG 3RD DEFENDANT

PHILICE OJWANG 4TH DEFENDANT

DIBORA OJWANG 5TH DEFENDANT

RULING

1. The Applicants Notice of Motion dated 14th June 2023 of Motion was placed before Koross J at Siaya ELC on 22nd June 2023. The Judge listed the matter as urgent and directed that it be served upon the Respondent and Interested Parties within 5 days. They would then have 7 days to respond.
2. Todate, there is no evidence to show that the Applicant filed and served submissions as directed by KOROSS J. On 16th October 2023 Mr. Onsongo for the 1st Interested Party informed the Deputy Registrar that he had not been served with any submissions as directed by Koross J.
3. The Deputy Registrar observed that the Applicant was “not keen on prosecuting the application.”
4. The matter was listed for mention today but none of the parties nor counsel has attended. That is strange for a matter which was filed under certificate of urgency in June 2023. I agree with the Deputy Registrar that the Applicant has lost interest in the matter.
5. Most importantly I notice from paragraph 5 of the replying affidavit by Sebastian Bwire the 1st Interested Party and dated 7th July 2023 that the orders being sought in the Notice of Motion dated 14th



June 2023 were infact the subject of a similar application for stay which was granted by the Magistrate on 16th June 2023 in Busia CMC Misc Application No E04 of 2022. With regard to the prayer for leave to file a reference from the decision of the taxing master, I do not see any compliance with the provisions of paragraph 11(1) and (2) of the *Advocate Remuneration Order*. Even the Bill of Costs itself is not annexed to enable me exercise my discretion.

6. The Notice of Motion dated 14th June 2023 is hereby struck out with costs to the 1st Interested Party.

BOAZ N. OLAO

JUDGE

31ST JANUARY 2024

RULING DATED, SIGNED AND DELIVERED BY WAY OF ELECTRONIC MAIL ON THIS 31ST DAY OF JANUARY 2024.

BOAZ N. OLAO

JUDGE

31ST JANUARY 2024

