



Onkeo & another v Embakasi Ranching Co Ltd & 2 others (Environment & Land Case 69 of 2017) [2024] KEELC 355 (KLR) (25 January 2024) (Ruling)

Neutral citation: [2024] KEELC 355 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 69 OF 2017
LN MBUGUA, J
JANUARY 25, 2024**

BETWEEN

ZAKAYO MONYONCHO ONKEO 1ST PLAINTIFF

YUNIAH KWAMBOKA MONYONCHO 2ND PLAINTIFF

AND

EMBAKASI RANCHING CO LTD 1ST DEFENDANT

ELIZABETH WANJIKU KARUME 2ND DEFENDANT

LUCY MUTHONI KAMAU 3RD DEFENDANT

RULING

1. This ruling relates to the application made by counsel for the plaintiff for their documents filed out of time on 20.3.2023 to be admitted. They contend that no prejudice will be occasioned unto the defendants and that they were not on record when the orders of 13.2.2023 were given.
2. In opposition thereof, counsel for the 2nd and 3rd defendants urged the court to consider the directions given by the court on 13.2.2023, that the said orders have not been reviewed or revived.
3. Counsel for the 1st defendant equally opposed the reliance on the said documents arguing that they were not even served with the same.
4. I have considered all the arguments raised herein. It is not disputed that the documents of the plaintiff dated 23.3.2023 were filed contrary to the directions given on 13.2.2023. The said directions of 13.2.2023 required the plaintiffs to file and serve their paginated trial bundle and the notice of change of advocate by 20.2.2023, otherwise the suit would stand as expunged.
5. At this juncture, it is pertinent to recapture the circumstances under which the orders of 13.2.2023 were given. On 22.9.2022, the matter came up for hearing but was adjourned at the instance of the



plaintiff. The court gave clear and firm directions that parties were to file and serve their witness statements and documentary evidence before the next pre trial date which was set on 13.2.2023. The court also gave a hearing date on 15.5.2023.

6. Come the date of 13.2.2023 and plaintiff's counsel indicated that they would rely on the trial bundle dated 23.4.2019 and another one dated 20.12.2022. It is noted that on 29.11.2023, counsel for the plaintiff had informed the court that they had filed their notice of change of advocate on 1.8.2022. Thus all along they were aware of the orders given on 13.2.2023.
7. In the case of *Mavuno Industries Limited & two others, v. Keroche Industries Limited* (2012) eKLR, the court noted that litigants and counsels must be warned that the courts are in the driving seats of justice. While in the case of *Virginia Kathambi Maingi v. Nichicolas Mwatika* (2021) eKLR, the court stated that;

“The law expects both the court and the litigants together with their counsels to embrace case management as a tool towards achieving the efficient administration of justice.”

8. In light of the foregoing analysis, the documents of the plaintiff dated 23.3.2023 are hereby expunged from the record. The plaintiff is however at liberty to rely on any documents filed on or before 13.2.2023.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25TH DAY OF JANUARY, 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Amaiyo and Oriaki for Plaintiff

Court Assistant: Eddel

