



**Muge v Kapsabet Division Land Disputes Tribunal; Republic (Exparte); Chirchir (Interested Party) (Environment & Land Case 23 of 2022) [2024] KEELC 394 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEELC 394 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT & LAND CASE 23 OF 2022  
MN MWANYALE, J  
JANUARY 25, 2024**

**BETWEEN**

**THOMAS KIMARU MUGE ..... APPLICANT**

**AND**

**KAPSABET DIVISION LAND DISPUTES TRIBUNAL ..... RESPONDENT**

**AND**

**REPUBLIC ..... EXPARTE**

**AND**

**MATHEW KIPKEMBOI CHIRCHIR ..... INTERESTED PARTY**

**RULING**

1. This matter was transferred from the High Court Eldoret on 2/8/2022 to this Court. Hitherto vide a ruling delivered on 27/8/2012, the Court granted the Exparte Applicant 30 days to fix the Notice of Motion dated 2/2/2004 for hearing for failure to which to stay orders issued on 16/01/2004 would be discharged.
2. The record shows that the matter did not take off till its transfer to Kapsabet where it was mentioned on various times on 16/2/2023, 11/5/2023 and 6/7/2023, 7/9/2023 and 16/11/2023 it was listed for a notice to show cause on 4/12/2023.
3. The Notice to Show Cause was fixed for hearing on 14/12/2023 whereat an affidavit to show cause by the *Exparte* Applicant; and a ruling of the Notice to Show Cause was thus reserved for today.
4. In his affidavit the *Exparte* Applicant depones that the matter is not ripe for dismissal for want of prosecution as it has been active.



5. The *Exparte* Applicant further deponed that on 16/11/2023 his Advocates were in Court to confirm compliance but did not address the Court due to a power failure and hence were surprised by the action of listing the matter for a Notice to Show Cause.
6. The Court notes that this Judicial Review Proceedings were commenced in the year 2004 and it has taken inordinately long to finalize the same; that there was a previous application to dismiss the suit for want of prosecution whose ruling is alluded to at paragraph 1 of this Ruling.
7. The compliance that is depones about is not evident on the Court record since they were directions issued on filing of submissions and it was thus properly listed the matter for a Notice to Show Cause.
8. Having perused the affidavit showing cause and taking into account that this matter has been in Court for over 19 years now the Court makes the following directions.
  - i) The substantive motion dated 2<sup>nd</sup> February 2004 to be listed for hearing with 30 days from today failure to which the same stands dismissed.

Orders accordingly.

**RULING, DELIVERED AND DATED AT KAPSABET THIS 25<sup>TH</sup> DAY OF JANUARY 2024.**

**HON. M. N. MWANYALE,**

**JUDGE.**

In the presence of;

Mr. Korir for *Exparte* Applicant

