



**Thindigua Company Limited v Njunge & 2 others; Kung'u & another (Interested Parties)
(Environment & Land Case 2163 of 2001) [2024] KEELC 357 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEELC 357 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 2163 OF 2001
LN MBUGUA, J
JANUARY 25, 2024**

BETWEEN

THINDIGUA COMPANY LIMITED PLAINTIFF

AND

FRANCIS P GITAU NJUNGE 1ST DEFENDANT

JOSEPH KIMANI 2ND DEFENDANT

NDAGWATHA KIARIE 3RD DEFENDANT

AND

STEPHEN KARANJA KUNG'U INTERESTED PARTY

BERNARD KINYAJUI PETER INTERESTED PARTY

RULING

1. This matter was referred for mediation on 23.2.2022 and a mediation agreement was subsequently made on 12.10.2023. The same is yet to be adopted as an order of the court.
2. On 16.1.2024, both the plaintiffs and defendants requested the court to adopt the said mediation agreement as an order of the court. However, counsel for the interested parties opposed this move averring that they were never served with the same. They desire that a copy of the mediation report be availed to them.
3. I have taken into consideration the various applications lodged by the Interested Parties geared towards halting the adoption of the mediation agreement culminating into various rulings i.e. the ones delivered on 9.2.2023, 27.4.2023 and 28.9.2023.



4. In particular, in the ruling dated 9.2.2023 at paragraph 10, the court noted that the Interested Party had no formal statement of claim by the time the matter was referred for mediation. It follows that the Interested Parties have no basis to put conditions in the adoption of the mediation agreement.
5. It is further noted that the mediation agreement was not even signed by the Interested Parties or their representatives.
6. In that regard, the application made by Mr. Njugi for the Interested Parties is hereby declined.
7. The mediation agreement dated 12.10.2022 is hereby adopted as an order of the court.

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

LUCY N. MBUGUA

JUDGE

In the presence of:-

Gatitu for Plaintiff

Thuo holding brief for Mrs. Kamuyu for 3rd Defendant

Njugi for Interested Parties

Court Assistant: Eddel

