



Son Hardware Limited v Development Bank of Kenya Limited & another (Environment & Land Case 10 of 2021) [2024] KEELC 1164 (KLR) (29 February 2024) (Ruling)

Neutral citation: [2024] KEELC 1164 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 10 OF 2021
MN GICHERU, J
FEBRUARY 29, 2024**

BETWEEN

SON HARDWARE LIMITED PLAINTIFF

AND

DEVELOPMENT BANK OF KENYA LIMITED 1ST DEFENDANT

**JOSEPH GIKONYO T/A GARAM INVESTMENTS AUCTIONEERS 2ND
DEFENDANT**

RULING

1. This ruling is on the notice of motion dated 26/2/2024. The motion has two (2) main prayers as follows.
2. That the court brings forward/closer the ruling date of the application dated 17/11/2023.
3. That in the alternative reinstates the orders that it vacated on 22/11/2023.
2. The motion is based on three (3) grounds and is supported by an affidavit sworn by Peter Muinaini Juma, a co-director of the plaintiff. In summary the application states as follows.
Firstly, the applicant made an application for recusal of the presiding judge in this case.
Secondly, when the case came up for directions on 22/11/2023 the court on its own motion discharged the injunction issued on 31/8/2021 yet no such injunction was issued on the said date.
Thirdly, the motion for recusal is not opposed by other parties in this case and the plaintiff's counsel does not wish to file any written submissions.
Fourthly, it is injurious to the applicant for an application that is unopposed to be fixed 7 months away.
For these and other reasons, it is only fair that the ruling is brought closer so that the applicant can make early choices.



3. I have carefully considered the motion including the grounds and the supporting affidavit. While it is true that the application for recusal is unopposed, I find that it raises serious allegations which should be addressed in the ruling. Furthermore this court has rulings and judgments lined on up every single day that it sits. No date passes without a judgment or a ruling from this court. Owing to the tight schedule that the court has, it is not possible to bring the ruling forward. It is also prudent the plaintiff's counsel files written submissions to support the application for recusal.
4. For the above stated reasons, the application dated 26/2/2024 is not allowed.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 29TH DAY OF FEBRUARY 2024.

M.N. GICHERU

JUDGE

