



**Obiero v Piotto (Environment & Land Case 314 of 2016)  
[2024] KEELC 920 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 920 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 314 OF 2016  
LN MBUGUA, J  
FEBRUARY 22, 2024**

**BETWEEN**

**PIUS OYUYO OBIERO ..... PLAINTIFF**

**AND**

**LYDUSHKA HORNIK PIOTTO ..... DEFENDANT**

**RULING**

1. The Defendant is allegedly deceased. This information was relayed to this court by a counsel named Kahura representing one Daniella Moretti who is said to be one of the administrators of the estate of the Defendant. The counsel brought to the attention of the court the existence of another case E023/2023, where Daniella is a party representing the estate of Lydushka Hornik Piotto.
2. On 29.1.2024, counsel Kahura stated that they could not file anything in file number 314/2016 because their client is deceased.
3. On the other hand, the applicant wants a judgment in the main originating summons, contending that they duly filed submissions dated 14.9.2022 and that no responses were ever filed.
4. A perusal of the records indicates that way back 21.9.2023, the court gave orders as follows;
 

“Death is a serious issue and the court must be given further and better particulars to determine whether this suit is a nullity. In the circumstances I direct that such particulars of the death of the respondent. i.e a death certificate be availed to this court to enable the court give further directions.”
5. To date no such particulars of death have been availed to this court.
6. It is noted that this matter was filed in High court on 25.4. 2016 and was transferred to this court around March 2017. It was dismissed for want of prosecution on 26.2.2018. An application to revive



the suit dated 17.7.2022 was dismissed on 31.10.2022. But another application for revival of the suit dated 1.11.2022 was allowed on 21.9.2023. I pose the question; at what point in the lifespan of the suit did the court give directions on the hearing of the case?. None!. I therefore decline to grant any directions on delivery of a judgment.

7. I will proceed to give a date for pretrial of the suit. At the same time, the court still reiterates that death is a grave matter and a proper suit cannot be sustained against a dead person as it would be a nullity. See *Japhet Nzila Muangi v Hamisi Juma Malee* [2022] eKLR. In that regard, Mr. Kahura is still at liberty to avail the particulars of the death of the defendant.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22<sup>ND</sup> DAY OF FEBRUARY, 2024  
THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Ann Makori for Plaintiff

Kahura for Daniella Mareti

Court assistant: Eddel

