



**Omolo v Akinyi & another (Environment & Land Case 193 of 2017)
[2024] KEELC 822 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 822 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT & LAND CASE 193 OF 2017
E ASATI, J
FEBRUARY 22, 2024**

BETWEEN

ALPHONCE LUMUMBA OMOLO PLAINTIFF

AND

BEATRICE AGENGO AKINYI 1ST DEFENDANT

LUCY JUMA AGENGO 2ND DEFENDANT

RULING

1. The application before court for determination is the Notice of Motion dated 20th November, 2023 which seeks for orders that the honourable court be pleased to set aside its dismissal order made on 30.10.2023 and reinstate the plaintiff's application dated 15th March 2023 to hearing on merit.
2. The applicant's explanation for non-attendance when the dismissal order was made is that Counsel for the applicant had difficulties logging into the virtual court session due to sudden power outage which affected her internet connectivity and that by the time she finally logged in, the matter had been called out and the application dismissed for want of prosecution.
3. The application was opposed vide the grounds of opposition dated 6/12/2023 that the application is incompetent, frivolous and vexatious and ought to be dismissed. That the application is an abuse of the court process as it was filed after delay.
4. One of the cardinal principles for setting aside of ex parte court orders is satisfactory explanation for non- attendance by the applicant.
5. I have considered the explanation and the grounds advanced in opposition of the application. I find that the explanation for non-attendance is plausible and hereby allow the application. Costs in the cause.
Orders accordingly.



RULING, DATED AND SIGNED AT KISUMU AND READ VIRTUALLY THIS 22ND DAY OF FEBRUARY, 2024 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Maureen - Court Assistant.

Omondi for the Plaintiff/Applicant

No appearance for the Defendants/Respondents.

