



**Maranatha Faith Assemblies & 2 others (Suing as the Representatives of Maranatha Faith Assemblies) v Tembo & 2 others (Suing as Representatives of Pentecostal Evangelistic Fellowship of Africa) (Environment and Land Appeal E1 of 2020) [2024] KEELC 1503 (KLR) (20 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1503 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT AND LAND APPEAL E1 OF 2020**

**FM NJOROGE, J**

**MARCH 20, 2024**

**BETWEEN**

**MARANATHA FAITH ASSEMBLIES ..... 1<sup>ST</sup> APPELLANT  
NATHANIEL CHENJI ..... 2<sup>ND</sup> APPELLANT  
REV ELIZABETH KAINGU ..... 3<sup>RD</sup> APPELLANT  
SUING AS THE REPRESENTATIVES OF MARANATHA FAITH ASSEMBLIES**

**AND**

**BISHOP THOMAS C. TEMBO ..... 1<sup>ST</sup> RESPONDENT  
BISHOP GEORGE CHIPA ..... 2<sup>ND</sup> RESPONDENT  
EMMANUEL KAHINDI KALELI ..... 3<sup>RD</sup> RESPONDENT  
SUING AS REPRESENTATIVES OF PENTECOSTAL EVANGELISTIC  
FELLOWSHIP OF AFRICA**

**RULING**

1. By a chamber summons application dated 4<sup>th</sup> August 2023 and filed on 15<sup>th</sup> December 2023 and brought under Sections 1A, 1B and 3A of the [Civil Procedure Act](#) and Order 42 Rule 35 (1) of the [Civil Procedure Rules](#), the Respondents have moved this court to dismiss the present appeal for want of prosecution. The basis of their application is that since 9<sup>th</sup> October 2020 when the Appellants filed a memorandum of appeal and stay of execution granted, the Appellants have failed to seek directions or set up the appeal for hearing. In support of the application is the supporting affidavit sworn by Emmanuel Kahindi Kaleli on 15<sup>th</sup> December 2023.



2. The application is opposed. The Appellants filed a Replying Affidavit sworn by Nathaniel Chenji on 24<sup>th</sup> January 2024, wherein he deposed that the Appellants' attempts to retrieve copies of proceedings before the lower court to enable them file a record of appeal have been frustrated by the relevant offices within the court; and that if given more time they will ensure that the record is ready and appeal listed for hearing.
3. On 6<sup>th</sup> February 2024, I directed parties to file written submissions in relation to the present application; the Respondents were to file and serve submissions within 7 days from the said date while the Appellants were to respond within 7 days from the date of service or in any event within 14 days from the date of the order. Undoubtedly, those days have since lapsed and there is no record of any submissions filed by either party. In the circumstances, I see no basis to address my mind to the application. Where the court has ordered an application to be heard by way of written submissions and provided no other manner of disposal, the failure to file submissions, especially on the applicant's part, is a signal of disinterest. The application dated 4<sup>th</sup> August 2023 has thus not been prosecuted and it is hereby dismissed with costs to the respondents.

**DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 20<sup>TH</sup> DAY OF MARCH 2024.**

**MWANGI NJOROGE**

**JUDGE, ELC, MALINDI**

