



**Yonko v Shoko & 3 others (Environment & Land Case 511 of 2017)
[2024] KEELC 1460 (KLR) (20 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1460 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 511 OF 2017
MN GICHERU, J
MARCH 20, 2024**

BETWEEN

SOKONO ENE YONKO PLAINTIFF

AND

MOSES SHOKO 1ST DEFENDANT

SPEED CAPITAL LIMITED 2ND DEFENDANT

MEAPS AUCTIONEERS 3RD DEFENDANT

KIMERIA OLE SILANTOI 4TH DEFENDANT

RULING

1. This ruling is on the notice of motion to show cause dated 7/4/2022 requiring the parties herein to show why this suit should not be dismissed for want of prosecution. The order for the notice to show cause was made by the court on its own motion on 1/3/2022. The reasons for the order and the notice is that since the court’s ruling on 9/7/2020, no action has been taken by any of the parties to prosecute the suit.
2. In response to the notice, the plaintiff filed an affidavit dated 17/5/2023 in which she deposes as follows.

Firstly, she is the registered owner of the suit land which is KJD/OLCHORO-ONYORE/19863 measuring approximately 13.34 hectares where she resides with her family.

Secondly, she has not been shown documents to prove sale of the suit land and she is unaware of its current status at the land registry.

Thirdly, the suit should not be dismissed because she may amend the plaint in the event that she comes to find out that the land has already been sold.



3. Only the second defendant filed an affidavit. The other defendants, though served, did not file any response. Through its recoveries manager James Karebe who swore an affidavit dated 26/8/2023, the second defendant calls for the dismissal of the suit for the following reasons.

Firstly, the matter has come up before court on more than six occasions yet the plaintiff has not shown interest in fixing the same for hearing.

Secondly, the plaintiff's apparent loss of interest in the matter only serves to hold the defendants in abeyance.

For these and other reasons, they pray that the suit be dismissed.

4. I have carefully considered the responses by the plaintiff and the second defendant to the notice to show cause. I have also considered the entire record including the pleadings by the parties. I find that the plaintiff has not shown cause why the suit should not be dismissed for the following reasons.

5. Firstly, the suit was filed under certificate of urgency on 6/3/2017 which is more than seven (7) years ago yet the plaintiff is not sure whether to amend the pleadings or not. If the plaintiff were serious on prosecuting the suit, the notice to show cause would have prompted her to seek to amend the plaint and show seriousness in having the suit concluded. Instead, she seems to have surrendered because she does not even know whether the suit land was sold or not.

Secondly, the Constitution, the Civil procedure Act and Rules as well as Environment and Land Court Act command us not to delay cases and especially land cases. Article 159 (2) (b) of the Constitution provides as follows.

2

“In exercising judicial authority, the courts and tribunals shall be guided by the following principles –

(b) Justice shall not be delayed”.

Section 1A (1) of the Civil Procedure Act provides;

The overriding objective of this Act and the rules made remember is to facilitate the just, expeditious, proportionate and affordable resolution of civil disputes governed by the Act”.

Section 3 (1) of the Environment and Land Act (Act No. 19 of 2011) repeats the objective in Section 1A (1) of the Civil Procedure Act. Finally, we have Order 11 Civil Procedure Rules which provides for timelines in regard to pretrial directions and conferences. The plaintiff has not complied with the Constitution and the law as regards the prosecution of her case for seven years.

For the above stated reasons, I dismiss the plaintiff's suit with costs to the defendants.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 20TH DAY OF MARCH 2024.

M.N. GICHERU

JUDGE

