



REPUBLIC OF KENYA



**Rugut v Rop (Environment & Land Case 12 of 2022)  
[2024] KEELC 4288 (KLR) (27 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4288 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT & LAND CASE 12 OF 2022**

**MN MWANYALE, J**

**MAY 27, 2024**

**BETWEEN**

**JEBICHY BOIT SITIENEI RUGUT ..... PLAINTIFF**

**AND**

**SILAS KIPKOECH ROP ..... DEFENDANT**

**RULING**

1. On 2/2/2024 the Deputy Registrar of the Court fixed this matter for Notice to Show Cause why it should not be dismissed before this Court on 11/3/2024.
2. On the said date both parties being absent the Court directed the registry to serve the Notice to Show Cause for 30/4/2024, and on the said date Mr. Mogambi appeared for the Plaintiff, while Mr. Mitei held brief for Mr. Bulbul for the Defendant although the record does not reflect a Memo of Appearance having been filed.
3. Mr. Mogambi sought and was given 7 days to file an affidavit to show cause and Notice to Show Cause was deferred to 8/5/2024.
4. The Plaintiff Mr. Silas Kipkoech Rop filed an affidavit to show cause. The title of his affidavit however indicated he was the Defendant yet the primary pleading, the originating summons dated 19/2/2020 reveals Mr. Silas Kipkoech Rop as the Plaintiff.
5. The deponent has deponed giving reasons why the matter should not be dismissed for want of prosecution. The affidavit details activities and the record reveal that the matter had been active before Court till 14/7/2022 and thereafter before the Honourable the Deputy Registrar till 2/2/2024 before coming back to this Court.



6. The Plaintiff was ordered to serve the Originating Summons on the Defendant who had filed a matter before the Chief Magistrate's Court ELC Case No. 38/2019 Eldoret which matter had been transferred to this Court and assigned case no. 2/2023.
7. Incidentally case ELC 2/2023 was also slated for Notice to Show Cause on 8/5/2024 together with this file but there having been no cause when by way of an affidavit or otherwise, the same was dismissed on 8/5/2024.
8. Contrary to the depositions that the delay in prosecuting this matter was occasioned by the delay in the transfer of Kapsabet, ELC No. 2/2023 formerly (Eldoret Chef Magistrates ELC case No. 38/2019) the delay in prosecuting this matter could not have arisen from the said transfer.
9. Having noted the matter was active before the Deputy Registrar and that by the time the matter was slated for Notice to Show Cause on 2/2/2024 one year had not lapsed since the other file had been transferred.
10. The Court directs the Plaintiff to serve the Originating Summons afresh and take up the requisite motions before the Deputy Registrar in the event of failure to enter appearance by the Defendant.
11. The Originating Summons to be served afresh within 7 days from today and mention to confirm filing of an appearance and/or response to the Originating Summons before the Deputy Registrar on 19/6/2024.

**RULING, DELIVERED AND DATED AT KAPSABET THIS 27<sup>TH</sup> DAY OF MAY, 2024.**

**HON. M. N. MWANYALE**

**JUDGE**

In the presence of; -

Mr. Mogambi for the Plaintiff

