



REPUBLIC OF KENYA



KENYA LAW
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**Sairi v County Government of Kajiado & 8 others (Environment & Land
Case 60 of 2020) [2024] KEELC 4204 (KLR) (14 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4204 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 60 OF 2020**

MN GICHERU, J

MAY 14, 2024

BETWEEN

LENGUR OLE SAIRI PLAINTIFF

AND

COUNTY GOVERNMENT OF KAJIADO 1ST DEFENDANT

KAJIADO LANDS REGISTRAR 2ND DEFENDANT

GRACE MUMBI MUTHONI 3RD DEFENDANT

SHIRIMA FIRMINUS MSUE 4TH DEFENDANT

ISAIAH WACHIRA GICHOHI 5TH DEFENDANT

ROSE WANJIRU KARIUKI 6TH DEFENDANT

PETER MORARA MOGERI 7TH DEFENDANT

WESLEY RISANCHO KASUKU 8TH DEFENDANT

MAGEH INVESTMENTS LIMITED 9TH DEFENDANT

RULING

1. On 24th April 2024, this case came up for notice to show cause why it should not be dismissed for want of prosecution. The suit was filed on 16th September 2020 simultaneously with an application for injunction which sought to restrain the defendants from entering, encroaching, trespassing, working, developing, constructing, selling or disposing LR Kajiado/Olchoro-Onyore/8727, 8728, 8729 and 8730 together with any subsequent subdivisions. The motion was dismissed on 3/11/2021.
2. Since the dismissal of the motion on 3/11/2021, the plaintiff has not taken any step to prosecute the suit. The matter has come up before court on 1/12/2021, 14/3/2022, 23/6/2022, 6/12/2021,



21/3/2023, 23/11/2023 and finally on 24/4/2024. On all those dates, the court has been coaxing the plaintiff to prosecute the case or it be dismissed.

3. On 24/4/2024, all that the plaintiff's counsel could do was to ask for more time to file evidence in the case.
4. Since the year 2010, it has been the requirement of the law that at the filing of a plaint, the plaintiff also files the following,
 - b. A list of witnesses to be called at the trial.
 - a. Written statements signed by the witnesses excluding expert witnesses.
 - b. Copies of documents to be relied on at the trial including a demand letter before action.

This is as per Order 3 rule 2 of the *Civil Procedure Rules*. The requirements to file the plaint together with the accompanying material is mandatory. There is a mandatory shall in subsection (2).

5. Section 3(1) of the Environment and *Land Act* requires that land cases be heard in a manner that is just, expeditious, proportionate and affordable. Sections 1A and 1B of the *Civil Procedure Act* repeat the same requirement. Article 159 of the *Constitution* of Kenya requires that justice should not be delayed.
6. From the above, it is obvious that the plaintiff has failed to comply with mandatory provisions of the law. Soon, it will be four (4) years since this suit was filed. The plaintiff has not only failed to prosecute the suit but he has also failed to demonstrate that he has any evidence to prove the serious allegations that he made in his pleadings. Worse still, he has failed to demonstrate passion on gathering any evidence at all.

I find that the plaintiff has no cause to show why this suit should not be dismissed. I dismiss it under Order 17 Rule 2 (1) *Civil Procedure Rules* with costs to the defendants.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 14TH DAY OF MAY 2024.

M.N. GICHERU

JUDGE

