



**Jefwa v Omar & another (Environment & Land Case
20 of 2017) [2024] KEELC 4442 (KLR) (4 June 2024) (Ruling)**

Neutral citation: [2024] KEELC 4442 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 20 OF 2017**

FM NJOROGE, J

JUNE 4, 2024

BETWEEN

MAALIM KHAMISI JEFWA PLAINTIFF

AND

MBARAK AWADH OMAR 1ST DEFENDANT

**HINDU MOHAMED AMUR (THE ADMINISTRATOR OF THE ESTATE OF
MOHAMED BIN AMUR BIN KAIL EL KINDY) 2ND DEFENDANT**

RULING

1. The 2nd Defendant filed a notice of motion application dated 18/3/2024 seeking orders that the present suit is dismissed with costs for want of prosecution and also that the costs of the suit be borne by the Plaintiff. It is premised on the grounds listed on the face of the motion as follows: -
 - a. That the Plaintiff and the 1st Defendant, their agents have been indolent in prosecuting this matter since 2019;
 - b. That the Plaintiff and the 1st Defendant have no existent right and or interest whatsoever either proprietary, beneficial or accrued by operation of any law in respect of the suit property;
 - c. That in consideration of clause 2 above, the suit filed herein plainly and obviously discloses no reasonable cause of action, is weak and hopeless beyond redemption and is otherwise an abuse of the court process;
 - d. That the suit property is the property of Mohamed Bin Amur Bin Kaili El Kindy (since deceased) and whose estate has been succeeded by the 2nd Defendant who is the administrator thereof;



- e. That the 1st Defendant has no sufficient and or any connection at all in law vis a vis the suit property to sue or to be sued for any action whatsoever in personam and rem. The 1st Defendant has never filed a defence since 2019 to date;
 - f. That the suit filed herein is bogus and merely a fraudulent scheme by the Plaintiff, the 1st defendant and their attorneys at law to defraud the lawful beneficiaries of the estate of the deceased and its pendency serves no lawful purpose at all;
 - g. That the best interest of justice will be served by allowing this application.
2. I have noted that the plaintiff was served with the present application and thus has notice of the fact that the claim has lain unprosecuted for more than a year. I have perused through the file and the CTS and found that the plaintiff has not come forward to justify why the suit ought not be dismissed for want of prosecution by filing his affidavit.
3. This is a matter in which the court may have also issued a notice of dismissal for want of prosecution suo moto. In the scenario, as the plaintiff has been notified and has failed to respond in any manner, this court finds no ground for maintaining this suit among the active cases and it is hereby dismissed for want of prosecution with costs to the applicant. The respondent shall bear the costs of the motion.

Dated, signed and delivered at Malindi via electronic mail on this 4th day of June 2024.

A photograph of a handwritten signature in blue ink on a light-colored background. The signature is cursive and appears to read 'Mwangi Njoroge'.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

MLD ELCLC20/17-RLG/DF-19.03.24/FH-19.03.24/LH-19.03.24/DR-04.06.24F Page 2 of 2

