



**Korir & others v Rotich & 5 others (Environment & Land Case 73 of 2019) [2025] KEELC 623 (KLR) (18 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 623 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 73 OF 2019  
A OMBWAYO, J  
FEBRUARY 18, 2025**

**BETWEEN**

**JOEL KORIR & OTHERS ..... PLAINTIFF**

**AND**

**JOSEPH KIPSANG ROTICH & 5 OTHERS & 5 OTHERS & 5 OTHERS ..... DEFENDANT**

**RULING**

1. Joel Korir and others have come to this court vide the application dated 14<sup>th</sup> November 2024 seeking orders that this honorable court be pleased to set aside its orders issued on the 13<sup>th</sup> of November 2024, dismissing the plaintiff/Applicant's Application for want of prosecution and on such terms as may be just. The applicant seeks orders that this honorable court be pleased to reinstate the Applicant's Application and the same set down for hearing and determination. Cost of the application be in the cause.
2. The application is based on grounds that the applicant herein filed an Application dated 28<sup>th</sup> October 2024 seeking to reinstate the plaintiff's suit which was dismissed on the 7<sup>th</sup> October 2024. The said Application was filed under certificate of urgency and the same fixed for hearing on the 13<sup>th</sup> of November 2024. That on the said date 13<sup>th</sup> November 2024, the Applicant's advocate did log in to the online court however before the matter was called out, the system logged him out and was unable to address the court.
3. Upon successfully returning to the online platform, the advocate requested the court to recall the file but the court noted that the same had been moved by the Respondent for dismissal. The said failure to be on the platform at the time the file was called tis associated with technological failures and not deliberate failure to attend the court. The Applicants stand to suffer irreparable harm and loss unless the Application is heard and determined on merit and not summarily dismissed on technicalities and failure of technology. The respondents shall not suffer any irreparable harm or loss should the suit



be reinstated. It is in the interest of justice that the suit herein be determined on merit as opposed to technicalities.

4. The supporting affidavit of Hezron Kimutai Bitok reiterates the grounds of the application. The respondent did not reply hence the facts relied upon by the applicant in the affidavit of Hezron Bitok are not controverted. I do find that the applicant has satisfactorily and sufficiently explained his failure to attend court. I do allow the application. Costs in the cause.

**RULING DATED SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU THIS 18<sup>TH</sup> DAY OF FEBRUARY 2025.**

**A O OMBWAYO**

**JUDGE**

