



**Mwatela (Suing Through Christine Ziro Mwatela Vide a Power of Attorney) v Thoya  
(Environment & Land Case 8 of 2007) [2024] KEELC 6991 (KLR) (24 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6991 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT & LAND CASE 8 OF 2007  
FM NJOROGE, J  
OCTOBER 24, 2024**

**BETWEEN**

**JOSPHAT KAZUNGU ZIRO MWATELA (SUING THROUGH CHRISTINE  
ZIRO MWATELA VIDE A POWER OF ATTORNEY) ..... PLAINTIFF**

**AND**

**JOHNSON KAVIHA THOYA ..... DEFENDANT**

**RULING**

1. This court has considered the Application dated of 27/9/2024 in this matter. It seeks orders to the effect that this court be pleased to extend the period of negotiations between the parties for an out of court settlement for up to 90 days. The grounds upon which that application has been brought are at its foot and they are inter alia that the judgment was rendered against the defendant who resides in the suit premises and his application for setting aside judgment was declined, and he thus runs the risk of eviction at any moment yet he wishes to explore an out of court settlement with the plaintiff. He expressly states that he does not dispute the plaintiff's claim now. The motion is opposed by the respondent who filed the affidavit sworn by Joseph Kanyi, Advocate dated 16/12/2022 for the purpose. That affidavit, though uploaded on CTS recently predates, the present application and I think it is not relevant to the present discourse. I note that the applicant filed submissions on 15/10/2024. According to the CTS The respondent had filed no submissions by the date of this ruling. In effect the application is not opposed by the respondent. In view of the express statement by the applicant to the effect that he does not dispute the respondent's claim, that he is 84 years old, and that all he needs is time within which to confer over a possible amicable settlement (which may include redemption of the only home he has known for about 50 years) with the respondent freely without the risk of a forcible eviction hanging over his head like the sword of Damocles, I find that 90 days is reasonable period to ask for. I thus find that the application ought to be granted. Consequently, I hereby grant the application dated 27/9/2024 in terms of Prayer no 4 thereof. The 90 days' extension period begin to run from the date of



this order. As the orders herein primarily benefit the applicant he shall bear the costs of the application in full, to be agreed upon by the parties and in default to be taxed.

**RULING DATED, SIGNED AND DELIVERED AT MALINDI ON THIS 24<sup>TH</sup> DAY OF OCTOBER 2024.**

**MWANGI NJOROGE**

**JUDGE, ELC MALINDI**

