



**Galot v Galot & 2 others (Environment & Land Case 2247 of 2007)
[2024] KEELC 6985 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6985 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 2247 OF 2007
LN MBUGUA, J
OCTOBER 17, 2024**

BETWEEN

MOHAN GALOT PLAINTIFF

AND

GANESHLAL PUSHARAM GALOT 1ST DEFENDANT

PRAVIN GALOT 2ND DEFENDANT

RAJESH GALOT 3RD DEFENDANT

RULING

1. The proceedings in this suit were stayed vide a ruling delivered herein on 12.2.2013 where the court stated as follows;

“Depending on the decision that will emanate from HCCC No. 55 of 2012 the parties in the instant suit and in the HCC ELC No. 49 of 2009 may elect to amend their pleadings and I therefore do not consider it would be appropriate to direct the instant suit to proceed to trial before a ruling is delivered in the 3 judge bench case and consequently I direct that the hearing of the present suit be stayed to await the decision in HCCC No. 55 of 2012.”

2. On 18.7.2024, Mr. Gilbert, plaintiffs counsel informed the court that the matter was stayed pending the determination of the High Court matter of which, a decision was delivered on 11.4.2024.
3. Mr. Kaka for the defendants in the consolidated case contended that indeed there was a ruling in HCCC Case No. 55 of 2012 on 11.4.2024, but that the said ruling was stayed vide an order of 8.7.2024, thus the issue of directorship has not been resolved and is being dealt with by the Court of Appeal.



4. Mr. Were for the 1st defendant joined ranks with the other defendants arguing that the high court matter was only unlocked briefly. Adding that the 1st defendant died on 12.5,2023 and they are in the process of having him substituted.
5. Mr. Omondi holding brief for Mr. Kenyatta for 3rd defendants, similarly associated himself with the sentiments of the other defendants, adding that counsel for the plaintiff has even filed an application in the high court matter challenging the STAY.
6. In rejoinder, counsel Gilbert stated that the application for joinder is not opposed. He further stated that all parties were in agreement that the high court rendered a decision on 11.4.2024 confirming that none of the 3 defendants are shareholders of Manchester, and that the said ruling formed the substratum of the stay. That by a subsequent order dated 30.4.2024 in the high court matter, any matters that had been stayed by that particular matter were to proceed, and that even the Court of Appeal in the case 375/18 had indicated that other cases must proceed. Thus the proceedings herein no longer have a stay order. He added that this case is old and that the defendants have been enjoying interim orders for ages.
7. I have considered all the issues raised herein. The issues for determination relate to the question of the stay of the proceedings as well as substitution of the 1st defendant.

Stay of proceedings

8. I find that from the time this matter was stayed in the year 2013, the plaintiff has made unsuccessful endeavors to have the matter prosecuted as seen in the rulings delivered by this court on 23.7.2015, the one of 18.10.2018 and the latest one dated 11.5.2023. The position taken by the court in the various rulings was that the high court had not rendered a decision. The parties now contend that the high court rendered a decision on 11.4.2024. The import of that decision in relation to the orders of this court given on 12.2.2013 appears to be the crux of the matter.
9. On one hand, the plaintiffs contend that the ruling of the high court has in essence removed the stay orders of 12.2.2013, while the defendants contend that the aforementioned orders of stay still stands since the high court also gave a stay and that the matter is at the Court of Appeal. Parties have apparently filed the various orders referred to in the digital platform (CTS).
10. I have keenly perused the aforementioned orders. The orders given by the high court on 11.4.2024 were filed by the plaintiffs in the CTS, and the same settled the question of shareholding and directorship in Manchester Outfitters.
11. The orders given in the high court on 30.4.2024 filed in the CTS by the plaintiff on 17.7.2024 read as follows;
 - “ 1) That this suit be dealt with and be determined without any further delay and in terms of the Commercial Appeal No. 375 of 2018 (That the orders have not yet been varied or set aside).
 - 2) That the peremptory issue that was identified by the Court of Appeal in the said appeal for determination having been determined as directed, all other all other suits that involve this party amounting to 23 in this division be proceeded without any further delay”.



12. The orders given in the High Court on 15.7.2024 filed by Kaka Advocates in the CTS on 17.7.2024 read as follows;

“That pending the hearing and determination of the application by the Court of Appeal, 30 days stay be and is hereby granted pending any further directions by the Court of Appeal.....”.

13. I have not come across any order from any quarters including the Court of Appeal in which the ruling of 11.4.2024 and the one on 30.4.2024 have been stayed. If anything the court of Appeal in the Commercial case No. 375 of 2018 Manchester Out fitters vs. Pravin Galot & 4 Others stated that the court cannot be used as a parking lot of suits which are not intended by parties to proceed.

14. It is clear beyond peradventure that the stay given by this court on 12.2.2013 is no longer tenable in light of the decision given in the high court matter on 11.4.2024. Needless to state that the stay given by the high court on 15.7.2024 was only to last for 30 days!.

15. The upshot of the findings herein is that the stay given on 12.2.2013 is now spent and the said orders are hereby discharged. I therefore give directions for the case to proceed to its logical conclusion.

Substitution of the 1st defendant.

16. Still on 18.7.2024, Mr. Were for the 1st defendant informed the court that the 1st defendant had passed on on 12.5.2023, of which they had filed an application for his substitution. The application is not opposed. A perusal of the digital file reveals that indeed the application for substitution was filed on 9.6.2024 where by the Grant issued on July 19, 2023 has been annexed. In that regard and in the spirit of expediting this case as set out in article 159 (2) of *the Constitution*, the aforementioned application is hereby allowed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17TH DAY OF OCTOBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

George Gilbert for Plaintiff

Were for 1st Defendant

Kenyatta for 2nd Defendant

Kaka for Defendants in 49 of 2009

Court Assistant: Joan/Vena

