



Muranga Road Motor Mart Limited v Kingori & 5 others (Environment & Land Case E038 of 2022) [2024] KEELC 7004 (KLR) (17 October 2024) (Ruling)

Neutral citation: [2024] KEELC 7004 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E038 OF 2022
LN MBUGUA, J
OCTOBER 17, 2024**

BETWEEN

MURANGA ROAD MOTOR MART LIMITED PLAINTIFF

AND

JANE WAIRIMU KINGORI 1ST DEFENDANT

TABITHA WARUGURU MAINA 2ND DEFENDANT

NANCY WATURI NJONJO 3RD DEFENDANT

DIRECTOR OF SURVEY MINISTRY OF LANDS 4TH DEFENDANT

NAIROBI CITY COUNTY GOVERNMENT 5TH DEFENDANT

OCPD BURUBURU POLICE STATION 6TH DEFENDANT

RULING

1. Before me is the 5th defendant's Application dated 27th February 2024 seeking orders that this matter be found to be *res-judicata* to a sister case No. ELC 1382 of 2016 before Judge Oguttu. The applicant also filed a Preliminary Objection of even date seeking similar orders. On 9th of April 2024, the court gave directions for the prosecution of the aforementioned Preliminary Objection and application whereby the applicant was to file and serve submissions by 7.5.2024, and the respondents there of were to file their submissions by 21.5.2024. The court gave a rider that documents filed outside the given timelines were to stand as expunged.
2. On 27.5.2024 it turned out that the applicants had not complied with the courts directions, hence they were given 14 days to comply and the matter was given a mention date of 23.7.2024. On the said date



of 23.7.2024, the applicants averred that they were yet to file submissions. This time round, the court gave self executing orders as follows;

“The records indicate that on 27.5.2024, the applicants were granted 14 days to file submissions. They didn’t comply. The court will indulge them with 7 more days to file and serve written submissions by 30.7.2024 failure to which, the application/Preliminary Objection shall stand as dismissed. The respondent (Plaintiff) is granted upto 7.8.2024 to file/serve submissions. Ruling on 17.10.2024”.

3. It is noted that the submissions were filed on 30.7.2024 at 16.37 pm. There is no evidence of service as at 30.7.2024 and it is no wonder that the respondents have not filed any submissions as per the courts directions.
4. None compliance with court orders attracts sanctions, See *Otundo (Suing on his behalf and in his capacity as the personal representatives of the Estate of the Late Agnes Ogola - Deceased) v Otundo & 2 others* (Environment & Land Case 20 of 2021) [2024] KEELC 4376 (KLR) (30 May 2024) (Ruling) Neutral citation: [2024] KEELC 4376 (KLR). And in the case at hand, the applicant was put on notice, that their claim as set out in the Preliminary Objection and the application dated 27.2.2024 faced imminent dismissal in the event of none compliance. I must add that the application itself is not even properly before the court as it was not paid for.

In the end, both the application and the Preliminary Objection dated 27.2.2024 stand as dismissed with costs to the plaintiff.

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

LUCY N. MBUGUA

JUDGE

In the presence of:

Gitahi Njuguna for Plaintiff Respondents (holding brief for Murage)

Irene Odhiambo holding brief for Mr. Bake for 5th Defendant

M/s Awandu holding brief for Were for 1st – 3rd Defendant

Court Assistant: Joan/Vena

