



**Koros & 3 others v Tormoi (Environment and Land Miscellaneous Application E005 of 2024) [2024] KEELC 13264 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13264 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E005 OF 2024  
MN MWANYALE, J  
NOVEMBER 14, 2024**

**BETWEEN**

**LINUS KIPKEMBOI KOROS ..... 1<sup>ST</sup> APPLICANT  
GREGORY KIPCHUMBA KOROS ..... 2<sup>ND</sup> APPLICANT  
ANDREW KIRWA ROTICH ..... 3<sup>RD</sup> APPLICANT  
PAULINE ROTICH ..... 4<sup>TH</sup> APPLICANT**

**AND**

**VALERIAN KIPNGETICH TORMOI ..... RESPONDENT**

**RULING**

1. On 11/3/2024, this Court dealt with the application dated 8<sup>th</sup> March 2024 directing interparty hearing on 19/3/2024.
2. On 19/3/2024 when the matter came up for hearing interpartes the Applicant's Advocates were not present and as a result the application dated 8<sup>th</sup> March 2024 was dismissed for non-attendance and want of prosecution.
3. The application before Court subject of this Ruling dated 26/4/2024 seeks setting aside of the proceedings of 19/3/2024 and further reinstatement of the application dated 8/3/2024.
4. In his submission in support of the application Mr. Serem Learned Counsel for the Applicant submitted that the non-attendance was not deliberate as the reasons was that the Counsels were not aware of the directions issued on 11/3/2024 as these were not communicated to them.
5. In opposition to the application Mr. Kiboi Learned Counsel for the Respondent placing reliance on the Replying Affidavit submitted that the Applicant was indolent in bringing in the application and that he has not given sufficient reasons as to why he was not in Court.



6. He invited the Court thus to dismiss the application.
7. The only issue for determination is whether the application is merited.
8. For the application to be meritorious, an Applicant must show sufficient reasons. In his affidavit, the reasons deponed are that the Applicants Advocate were not aware of the date for interparte hearing hence their non-attendance as deponed by the Advocate at paragraph 5.
9. Although there was indolence on the part of the Applicant who was not vigilant enough to follow up on the Court process after filing the application, the non-follow up was occasioned by his Advocates and their mistakes should not be visited upon the innocent litigant, as has been held by various dictas of the Court.
10. In the circumstances, the Court allows the application and reinstates the dismissed application dated 8<sup>th</sup> March 2024.
11. Parties shall file submissions on the said application and mention shall be on 9/12/2024 to take further directions.

**RULING DELIVERED AND DATED AT KAPSABET THIS 14<sup>TH</sup> DAY OF NOVEMBER, 2024.**

**HON. M. N. MWANYALE,**

**JUDGE.**

In the presence of;

Mr. Sagasi holding brief for Mr. Serem for Applicant

Mr. Kiboi holding brief for Respondent

