



**Hassan (Suing as the special Attorney for Enrico Quercioli) v Fabiana & 2 others (Environment & Land Case 46 of 2020) [2024] KEELC 14037 (KLR) (18 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 14037 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT & LAND CASE 46 OF 2020  
FM NJOROGE, J  
DECEMBER 18, 2024**

**BETWEEN**

**ABDULRAHMAN SHEIKH HASSAN (SUING AS THE SPECIAL ATTORNEY FOR ENRICO QUERCIOLLI) ..... PLAINTIFF**

**AND**

**MARIA ANGELA DE FABIANA ..... 1<sup>ST</sup> DEFENDANT**

**THE ATTORNEY GENERAL ..... 2<sup>ND</sup> DEFENDANT**

**LAND REGISTRAR MOMBASA ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. In the application dated 25/6/2024 the plaintiff seeks leave to file a comprehensive additional list of documents encompassing new documents and those already on the record before the case is heard and determined.
2. The grounds upon which the application is made appear at the foot of the motion and in the supporting affidavit sworn by the plaintiff, attached to the motion. They are that recently the plaintiff learnt that crucial documents in the case have not been filed or served and that time for such filing and service has long since passed; that until recently the applicant did not know that the documents were crucial to the case; that the matter has not proceeded to hearing and no prejudice would be occasioned to the defendants.
3. In opposition the 1<sup>st</sup> defendant filed a replying affidavit dated 19/9/2024. He deponed that the matter already had a hearing date; that the court had ordered that no further documents shall be filed; that the applicant served him a bundle of documents incorporating new documents three months after it was filed on 30/11/2023; that the plaintiff moves sluggishly in the matter and his prayers are unreasonable and ought to be denied.



4. The plaintiff filed a further affidavit dated 2/9/24. Attaching a special power of attorney and documents in Italian language and their translations in English, which he stated will assist the court in the determination of the suit.
5. Both the plaintiff and the 1<sup>st</sup> defendant filed submissions on the application.
6. I have considered the application, the response and the submissions. On 22/11/2023 when the hearing began it was interrupted by the realization that the bundles of the plaintiff were not in a good state. The court gave leave to the plaintiff to correct the situation and to desist from adding any new documents while filing a new and orderly bundle unless leave was applied therefor and justification given. That is the leave that the plaintiff now seeks. The hearing had not proceeded much on 22/11/2023 when the disorder in the bundle filed by the plaintiff was discovered by the court. I find no prejudice that would be occasioned by the granting of the order sought. I therefore allow the application dated 25/6/2024 in terms of prayer no 1 thereof. The plaintiff shall however bear the costs of the said application in any event. This matter shall be mentioned on 11/2/2025 for the fixing of a hearing date.

**RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 18<sup>TH</sup> DAY OF DECEMBER, 2024.**

**MWANGI NJOROGE**

**JUDGE, ELC MALINDI**

