



Muranga Road Motor Mart Limited v Kingori & 5 others (Environment & Land Case E038 of 2022) [2024] KEELC 13898 (KLR) (17 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13898 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E038 OF 2022
LN MBUGUA, J
DECEMBER 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 Notice of Motion dated 23.10.2024 seeking orders for review and setting aside of the courts orders of 17.10.2024 so as to determine the Notice of Preliminary Objection and Application dated 27.2.2024 on merits. The application is premised on grounds on the face of the application and the supporting affidavit of W.S. Ogola the Acting County Solicitor of the 5th defendant. He contends that contrary to the courts observation in its ruling of 17.10.2024, the applicant fully complied with the courts directions given on 23.7.2024.
2. In opposition thereof, the plaintiff has opposed the application vide the Replying affidavit of its director, one Francis Nganga contending that the application has no merits as the applicants were in open defiance of the court orders.



3. A perusal of the ruling dated 17.10.2024 reveals that the application and the Preliminary Objection were dismissed for none compliance with courts directions, primarily on the issue of service since by close of business on 30.7.2024, no affidavit of service had been filed.
4. At ground number 4 in their current application, the applicants contend that they had indeed effected service but they inadvertently failed to file an affidavit of service. The respondent has however not rebutted the averment that they were served.
5. In the case of *Isiolo Stage View Enterprises v Isiolo County Government & 2 Others* [2018] eKLR (Mbugua J), the court stated that the main purpose for imposing timelines of events in the lifespan of a court case (including filing of documents) is to achieve the overriding objectives set out in the *Civil Procedure Act*. The court went ahead to state that;

“Time standards help courts to closely manage and monitor the processing of cases from filing to conclusion. Further, time standards set defined targets for the completion of key process steps and events, establish overall goals that judges and lawyers must meet, create the expectation of what constitutes timeliness, and are essential to eliminating and avoiding case backlogs. The standards reflect a commitment by the courts to complete cases promptly, and also reflect what court users’ regard as a reasonable time for the resolution of case. The net effect of non-compliance with the set timelines is delay, creation of backlog, more acrimony and even confusion”.
6. Weighing the interests of all the parties herein, the court is inclined to allow the application dated 23.10.2024 but with costs to the plaintiff.

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

LUCY N. MBUGUA

JUDGE

In the presence of:

Gitahi Njuguna holding brief for Murage for Plaintiff

Irene Odhiambo holding brief for Bake for 5th for Defendant

Allan Kamau for 4th and 5th Defendants

Omondi holding brief for Were for 1st – 3rd Defendants

Assistant: Vena

