



Ngala & 2 others v Randu & 2 others (Environment & Land Case 56 of 2020) [2024] KEELC 14169 (KLR) (10 December 2024) (Ruling)

Neutral citation: [2024] KEELC 14169 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 56 OF 2020
FM NJOROGE, J
DECEMBER 10, 2024**

BETWEEN

**VINCENT KAZUNGU NGALA 1ST PLAINTIFF
RODGERS KARISA NGALA 2ND PLAINTIFF
ROBERT KADSITU NGALA 3RD PLAINTIFF**

AND

**EMMANUEL KAZUNGU RANDU 1ST DEFENDANT
ZAWADI KAZUNGU RANDU 2ND DEFENDANT
KILIFI COUNTY LAND SURVEYOR 3RD DEFENDANT**

RULING

1. The application dated 12/6/2024 has been filed by the plaintiffs. They seek that their suit, which was dismissed on 31/1/2024 for non-attendance be reinstated for hearing. They also seek orders that the respondents be restrained from interfering with the plaintiffs’ ownership of the suit property pending the hearing and determination of the suit. The application is premised on the grounds set out at its foot and in the supporting affidavit of the 1st plaintiff attached thereto. The grounds are that the applicant’s advocate was logged into 5 different courts at the same time and as he was addressing another court this court dismissed the suit. It is stated that on that day the plaintiffs had travelled all the way to Malindi to attend the hearing and they were ready to be heard, and the mistakes of their advocate should not be visited upon them.
2. The application was served. However, it is unopposed. The applicant filed undated submissions which I have perused. I am persuaded that the applicants should not be made to pay for the mistakes of their counsel and that the application ought to be granted so that their case can be reinstated and determined on its merits.



3. Consequently, I hereby allow the motion dated 12/6/2024 in terms of prayers no. 2 and 3 thereof. The costs of the said application shall be in the cause. This matter shall be listed for hearing of the substantive suit on 8/4/2025.

RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 10TH DAY OF DECEMBER, 2024.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

