



**Nyongesa v Nyongesa & 2 others (Environment & Land Case  
919 of 2017) [2023] KEELC 387 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 387 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 919 OF 2017  
MN GICHERU, J  
JANUARY 30, 2023**

**BETWEEN**

**JACKLINE WALEKHWA NYONGESA ..... PLAINTIFF**

**AND**

**JOHN WAMALWA NYONGESA ..... 1<sup>ST</sup> DEFENDANT**

**FRED WASIKE SITUMA ..... 2<sup>ND</sup> DEFENDANT**

**LAND REGISTRAR, KAJIADO –NORTH ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. On December 1, 2021, the Plaintiff’s counsel appeared in court and requested that the court gives him a hearing date. The court fixed June 15, 2022 as the hearing date. The Plaintiff’s counsel was to serve the Defendants’ counsel who was absent on December 1, 2021.
2. On June 15, 2022 at 10.45 am, the case was called outside the court but neither the parties nor their counsel were present in court. The court then directed that it would consider the material filed by the parties and write a judgment after deeming the Plaintiff’s case as closed.
3. Upon reflection and on second thoughts, I find that I should adopt the procedure set out in Order 12, Rule 1 of the *Civil Procedure Rules* which provides as follows.

“If on the day fixed for hearing, after the suit has been called on for hearing outside the court, neither party attends, the court may dismiss the suit”.
4. Rather than write the judgment as earlier directed, I will vacate those orders of June 15, 2022 and substitute them with an order dismissing the Plaintiff’s suit with costs under Order 12, Rule 1 Civil Procedure Rules.

**Dated, signed and delivered virtually at Kajiado this 30<sup>th</sup> day of January, 2023.**



**M N GICHERU**

**JUDGE**

---

**HON JUSTICE M N GICHERU RULING ELC 919/2017 1**

