



**Muriithi v Thairu & another (Environment & Land Case
303 of 2017) [2023] KEELC 363 (KLR) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 363 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 303 OF 2017
LN MBUGUA, J
JANUARY 26, 2023**

BETWEEN

SAMMY NDEGWA MURIITHI PLAINTIFF

AND

RICHARD GACHAGWA THAIRU 1ST DEFENDANT

COUNTY GOVERNMENT OF NAIROBI 2ND DEFENDANT

RULING

1. Before me is a notice of motion dated February 28, 2022 in which the plaintiff seeks orders of review of this court's orders of December 8, 2021 whereby the 1st defendant was granted leave to amend its defence; that the defence filed herein be struck out and that the 1st defendant be ordered to remit costs of sh 50,000 for committal of perjury. The plaintiff avers that the 1st defendant's application dated January 25, 2019 was only filed two weeks prior to the date of ruling of plaintiff's application dated September 1, 2021.
2. The 1st defendant has opposed the application vide his Replying Affidavit dated March 8, 2022 where he contends that he was unable to file his application dated January 25, 2019 because the file had a hearing date already.
3. I have considered the litigation history herein, in particular, this court takes into account its pronouncement on Active Case Management principles captured at paragraph 19 in the ruling of November 3, 2021, and paragraph 13 in one of the rulings of December 8, 2021.
4. This is a matter whereby the pretrial directions have been given and the matter is scheduled for hearing on June 20, 2023. Even if the application dated 25.1.2019 was filed just few weeks to the delivery of a ruling of plaintiff's application of September 1, 2021 that is not sufficient reason to warrant a review. I must add that the right to be heard is a valued right – see *IMK v MWM & Another* 2015 eKLR and there being a hearing date in this suit, then the parties should focus on preparation of the trial. Further,



the parties should internalize the impact of my ruling delivered on November 3, 2021. The application dated February 28, 2022 is hereby dismissed with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF JANUARY, 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

Odhiambo holding brief for Kokul for plaintiff

Kimathi for 1st Defendant

Court assistant: Eddel

