



REPUBLIC OF KENYA



**KENYA LAW**  
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**Njoroge v Chief Land Registrar & 4 others (Environment and Land Case Civil Suit 210 of 2019) [2023] KEELC 15921 (KLR) (23 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 15921 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE CIVIL SUIT 210 OF 2019  
LN MBUGUA, J  
FEBRUARY 23, 2023**

**BETWEEN**

**MARY WAITHERA NJOROGE ..... PLAINTIFF**

**AND**

**CHIEF LAND REGISTRAR ..... 1<sup>ST</sup> DEFENDANT**

**BENSON MAINGI MUTAHI ..... 2<sup>ND</sup> DEFENDANT**

**HELLEN WANJIKU MAINGI ..... 3<sup>RD</sup> DEFENDANT**

**MICHAEL WAGUNDA ..... 4<sup>TH</sup> DEFENDANT**

**GRACE WAIRIMU MUIGAI ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. This suit was dismissed on May 19, 2022 for failure by the Plaintiff to serve summons. The Plaintiff then filed a Notice of Motion application dated 24.5.2022 seeking orders to set aside the dismissal orders of May 19, 2022. That application was dismissed vide the ruling of this court dated November 3, 2022.
2. The Plaintiff then filed a Notice of Motion application dated November 7, 2022 which is for determination before this court. She seeks orders that the court be pleased to set aside and /or vary its orders made on May 19, 2022 dismissing the suit herein together with all other consequential orders arising from the dismissal and an order to re-instate her case and provide a full hearing date for the matter.
3. The application is based on grounds on its face and on the Plaintiff's supporting affidavit sworn on November 7, 2022. She deposes that after several attempts to serve the Defendants with court summons without success, the court granted her an order to serve the same by substituted means on September 30, 2019. Subsequently, she effected service by advertisement in the Daily Nation



newspaper of October 1, 2019. She also later came to learn that her former Advocates did request for judgment against the Defendants for failure to enter appearance having been duly served.

4. The application is opposed by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants vide their joint Replying Affidavit sworn on January 13, 2023. They aver that they have never been served with summons herein and challenge the Plaintiff to provide evidence of service. They depose that the Plaintiff availed an unsigned copy of pleadings to their Advocates without the attendant summons, and that the Plaintiff abandoned this suit by failing to attend court on many occasions thus her application should be dismissed.
5. This court already considered the issue of reinstatement of this suit and made a determination vide its ruling of November 3, 2022. It reiterated the dismissal of May 19, 2022 for failure to serve summons upon the Defendants. No application for review of the said ruling has been made before this court. It follows that this court would be sitting on appeal of its own ruling of November 3, 2022 if it was to determine this matter. In the circumstances, the application dated November 7, 2022 is found to have no merits, the same is hereby dismissed with costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23<sup>RD</sup> DAY OF FEBRUARY, 2023  
THROUGH MICROSOFT TEAMS.**

**LUCY N MBUGUA**

**JUDGE**

**In the presence of:-**

**Njonjo for Plaintiff/Applicant**

**Kiima for 2<sup>nd</sup> & 3<sup>rd</sup> Defendants**

**Court assistant: Eddel**

