



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

County Government of Homabay v Keysan Auctioneers Services & 5 others (Environment & Land Case 21 of 2021) [2023] KEELC 15912 (KLR) (22 February 2023) (Ruling)

Neutral citation: [2023] KEELC 15912 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT & LAND CASE 21 OF 2021
GMA ONGONDO, J
FEBRUARY 22, 2023**

BETWEEN

COUNTY GOVERNMENT OF HOMABAY PLAINTIFF

AND

KEYSAN AUCTIONEERS SERVICES 1ST DEFENDANT

EQUITY BANK 2ND DEFENDANT

PERES ATIENO MIRURA 3RD DEFENDANT

CHIEF LAND REGISTRAR 4TH DEFENDANT

NATIONAL LAND COMMISSION 5TH DEFENDANT

ATTORNEY GENERAL 6TH DEFENDANT

RULING

1. Learned Counsel, Mr. S.O Nyauke for the plaintiff has applied for service of the 3rd defendant, Peres Atieno Mirura by way of substituted service on the grounds as follows;
 - a. The matter has been pending in court for a long time.
 - b. The 3rd defendant cannot be traced.
 - c. In the interest of justice
2. Mr. Ondade Learned Counsel for the 1st and 2nd defendants has no objection to the application.



3. Indeed, this suit has been pending in court for along period of time. Article 159(2) (b) of the *Constitution of Kenya 2010*, reads:

“Justice shall not be delayed”

4. This court is guided by Order 5 Rule 17 of the *Civil Procedure Rules, 2010* on substituted service.

5. So, the plaintiff’s application is satisfactory and is hereby allowed under Order 5 Rule 17 (supra).

6. The applicant’s Counsel to serve the 3rd respondent by substituted service within the next thirty (30) days from this date.

7. Also, the 3rd, 4th and 5th respondents be served by the plaintiff counsel.

8. The matter is fixed for further directions on April 17, 2023.

9. Orders accordingly.

VIRTUALLY DELIVERED AND DATED AT HOMABYA THIS 22ND DAY OF FEBRUARY 2023.

G.M.A ONG’ONDO

JUDGE

PRESENT

Mr. S.O Nyauke, learned counsel for the plaintiff

Mr. Odande learned counsel for the 1st and 2nd defendants.

