



**Koinange v Kahara & 2 others (Environment and Land Appeal  
24 of 2019) [2023] KEELC 716 (KLR) (15 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 716 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND APPEAL 24 OF 2019  
MN GICHERU, J  
FEBRUARY 15, 2023**

**BETWEEN**

**DANIEL KOINANGE ..... APPELLANT**

**AND**

**PRO NATHAN KAHARA ..... 1<sup>ST</sup> RESPONDENT**

**LASET LIMITED ..... 2<sup>ND</sup> RESPONDENT**

**THE LAND REGISTRAR, KAJIADO ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. This ruling is on the preliminary objection dated 3/3/2022 which states as follows;  

“ That the appeal lodged by the Memorandum of Appeal filed on 25/10/2019 is incompetent, bad in law and constitutes an abuse of the court process as the same was filed out of time”.
2. In support of the preliminary objection, counsel for the Respondents filed written submissions dated 7/6/2022 citing section 76G of the *Civil Procedure Act* which provides timelines within which to prefer an appeal and circumstances in which the court may admit an appeal out of time.
3. Counsel for the appellant filed written submissions dated 7/12/2022 in which he explains that the proceedings appealed against took place on 11/9/2019. This appeal was filed on 25/10/2019 and there is no indication whether the ruling was read to the parties in their presence. It is not certain whether the parties were advised on the way forward after the ruling. Without this certainty, the preliminary cannot therefore be on a pure point of law as we still do not know what happened on the date of the ruling.
4. I have carefully considered the preliminary objection as well as the submissions by learned counsel for the parties. I am easily persuaded by the argument by the appellant’s counsel that the record is not clear on the following.



- i. When the boundary determination took place.
- ii. When the ruling was delivered.

It is very unlikely that the ruling that runs into 16 pages was typed at the scene on 11/9/2019 and read to the parties on the same date. There is likely to be an error apparent on the ruling of the Land Registrar. With this uncertainty, I find that the preliminary objection is not on a pure point of law and therefore fails the test in *Mukisa Biscuit Manufacturing Co Ltd v West End Distributors Ltd* (1969) EA 696.

I find no merit in the preliminary objection and I dismiss it. Costs in the cause.

It is so ordered.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 15<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**M.N. GICHERU**

**JUDGE**

