



REPUBLIC OF KENYA



KENYA LAW
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**City Council of Nairobi v Sikamoi & 2 others (Environment & Land Case
392 of 2008) [2023] KEELC 941 (KLR) (15 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 941 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 392 OF 2008
LN MBUGUA, J
FEBRUARY 15, 2023**

BETWEEN

CITY COUNCIL OF NAIROBI PLAINTIFF

AND

JOEL KANI OLE SIKAMOI 1ST DEFENDANT

**BOARD MANAGEMENT OF GARDEN ESTATE SECONDARY
SCHOOL 2ND DEFENDANT**

**BOARD MANAGEMENT OF GARGEN ESTATE PRIMARY
SCHOOL 3RD DEFENDANT**

RULING

1. I have perused the record particularly the proceedings of July 4, 2022. The directions given therein were that by consent, there was to be a scene visit conducted by a Government Surveyor, though the parties were at liberty to avail their respective private surveyors during the exercise; of which all counsels confirmed that the exercise was conducted. It is M/s Katila who had initiated the proposal to have a scene visit, but she did not indicate that they were to call any other witnesses.
2. The court has now been informed that a Preliminary Report is ready but it has to be formally approved and signed. Thus the same has not been availed to the court and the parties. In view of the fact that the directions of July 4, 2022 on scene visit were given by consent and the other parties, other than the 2nd & 3rd defendants in case ELC 392 of 2008 have not seen the report (Preliminary or otherwise), then I find that it would be prejudicial for the case to proceed at this stage.
3. I hence proceed to give the following orders:



1. The case of the plaintiff in ELC 392 of 2008 is hereby marked as closed. Once parties get the Report, they will be at liberty to move the court accordingly on any issues relating to the said report.
2. The hearing of the case is adjourned and shall proceed once the report is availed to the court and to all the parties.
3. Considering that the plaintiffs in case No. 392 of 2008 have closed their case, and that the said file ELC 392 of 2008 is not only the older file, but it is the lead file too, then the evidence shall continue to be taken in the said file ELC 392 of 2008 with the 1st defendant being next on line followed by the other defendants. The evidence in ELC 1057 of 2016 shall then be taken but parties are at liberty to adopt any evidence taken in ELC 392 of 2008.
4. The cases against the 1st and 3rd defendants in ELC 1057 of 2016 are hereby marked as withdrawn as the said entities are no longer in offices.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15TH DAY OF FEBRUARY, 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

M/s Katila for Plaintiff

Nyang for 1st Defendant in 392 of 2008

Kerubo for 2nd & 3rd Defendants in 392 of 2008 and for 2nd Defendant in 1057 of 2016

Mrs. Kahindi for 1st Defendant in 1057 of 2016 (CDF)

Mengich for 2nd Plaintiff in 1057 of 2016

Court assistant: Eddel

