



Ruenji & another v Omwenga & another; Jangara (Interested Party) (Environment & Land Case 609 of 2014) [2023] KEELC 948 (KLR) (14 February 2023) (Ruling)

Neutral citation: [2023] KEELC 948 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 609 OF 2014
LN MBUGUA, J
FEBRUARY 14, 2023**

BETWEEN

LYDIA WANJIKU RUENJI PLAINTIFF

AND

FLORENCE OUMA JANGARA INTERESTED PARTY

AND

THOMAS OMWENGA 1ST DEFENDANT

DANIEL SIBWORI 2ND DEFENDANT

AND

FLORENCE OUMA JANGARA INTERESTED PARTY

RULING

1. This court rendered its decision this morning on the issue of application for adjournment made by counsel for the 2nd & 3rd defendants.
2. The counsel for 2nd & 3rd defendants has now informed the court that they never filed a defence! yet the matter has been scheduled for hearing on several occasions previously. And as far back as July 28, 2019, Mr. Gekonge was still acting for the defendants; Even before that day the defendants were still represented though by another advocate (Chuma & Mburu Advocates). Thus the withdraw of instructions sometime in year 2021 and the renewal of such instructions thereafter cannot be the basis of failing to file a defence!.
3. A pleading is the foundational document in which a party sets out their claim or refutes the claim of the rival party and also forms a basis of the issues for determination. This suit was filed way back in 2014 and no plausible reasons have been advanced as to why the defendants did not file a defence for the last



8 or so years. What I find appalling is that it is this court which suo- moto probed the defence counsel to indicate whether there was a statement of defence on record. By then the court had embarked on conducting a case management exercise just before the actual trial. It means that the defendants have kept the plaintiff in the dark as to what their claim is all about.

4. Similarly, no good reasons have been advanced as to why the defendants did not comply with the provisions of Order 11 of the Civil Procedure Rules in relation to filing witness statements and documentary evidence.
5. The right to be heard is sacrosanct as it is the fundamental basis of a fair hearing. However, this is a case whereby the defendants have squandered that right.
6. In the circumstances the orders given by this court earlier on in the morning are hereby affirmed noting that one way or the other, litigation must come to an end.
7. For avoidance of doubts, the suit shall proceed as an undefended claim in view of the fact that no statements of defence were ever filed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF FEBRUARY, 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

Njiraini for Plaintiff

Gekonge for 2nd & 3rd Defendant

