



**Miguna v Attorney General & 24 others; National Commission
on Human Rights & another (Interested Parties) (Civil Suit
163 of 2019) [2024] KEHC 8058 (KLR) (Civ) (27 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8058 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL SUIT 163 OF 2019

CW MEOLI, J

JUNE 27, 2024

BETWEEN

MIGUNA MIGUNA PLAINTIFF

AND

THE ATTORNEY GENERAL 1ST DEFENDANT

**CABINET SECRETARY, MINISTRY OF INTERIOR AND CO-ORDINATION
OF NATIONAL GOVERNMENT 2ND DEFENDANT**

**PRINCIPAL SECRETARY, DEPARTMENT OF IMMIGRATION AND
REGISTRATION OF PERSONS 3RD DEFENDANT**

INSPECTOR GENERAL, NATIONAL POLICE SERVICE 4TH DEFENDANT

DIRECTOR OF CRIMINAL INVESTIGATION 5TH DEFENDANT

DIRECTOR OF PUBLIC PROSECUTION 6TH DEFENDANT

**DIRECTOR OF IMMIGRATION AND REGISTRATION OF
PERSONS 7TH DEFENDANT**

**OFFICER IN CHARGE OF THE FLYING SQUAD, KENYA POLICE
SERVICE 8TH DEFENDANT**

**OFFICER COMMANDING POLICE STATION, GITHUNGURI ... 9TH
DEFENDANT**

OFFICER COMMANDING POLICE STATION, LARI 10TH DEFENDANT

**OFFICER COMMANDING POLICE STATION, THE INLAND CONTAINER
DEPOT 11TH DEFENDANT**



OFFICER COMMANDING POLICE STATION, JOMO KENYATTA INTERNATIONAL AIRPORT (JKIA)	12 TH DEFENDANT
CABINET SECRETARY, MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT	13 TH DEFENDANT
PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT	14 TH DEFENDANT
FRED OKENGO MATIANGI	15 TH DEFENDANT
PAUL KIHARA KARIUKI	16 TH DEFENDANT
GORDON KIHALANGWA	17 TH DEFENDANT
JOSEPH BOINNET	18 TH DEFENDANT
GEORGE KINOTI	19 TH DEFENDANT
SAID KIPROTICH	20 TH DEFENDANT
JOSEPH MUNYWOKI	21 ST DEFENDANT
ALEXANDER MUTESHI	22 ND DEFENDANT
JAMES MACHARIA	23 RD DEFENDANT
PAUL MWANGI MARINGA	24 TH DEFENDANT
JAPHETH KOOME	25 TH DEFENDANT

AND

NATIONAL COMMISSION ON HUMAN RIGHTS	INTERESTED PARTY
LAW SOCIETY OF KENYA	INTERESTED PARTY

RULING

1. Before the court for determination are two (2) motions. The first motion dated 25.11.2022 is by Miguna Miguna (hereinafter the Plaintiff), while the second motion dated 24.02.2023, was filed by Gordon Kihalangwa (hereinafter the 17th Defendant). For purposes of this ruling, the Court will hereafter refer to the motions as the Plaintiff's motion and the 17th Defendant's motion, respectively.
2. The Plaintiff's motion seeks inter alia that the order of this Court issued on 14.10.2022 dismissing the suit herein and any subsequent order thereto be varied and or set aside; and that consequently, that the suit be re-instated. The motion is expressed to be brought pursuant to Article 159(2)(d) of *the Constitution*, Sections 1A, 1B & 3A of the *Civil Procedure Act* (CPA), Order 12 Rule 7 and Order 51 Rule 1 of the Civil Procedure Rules (CPR). And premised on grounds on the face of the motion, as amplified in the supporting affidavit sworn by Plaintiff.
3. To the effect that he filed his suit on 29.07.2019 seeking various reliefs as against the following defendants. The Attorney General; The Cabinet Secretary – Ministry of Interior and Co-ordination of National Government; Principal Secretary – Department of Immigration and Registration of Persons; Inspector General – National Police Service; Director of Criminal Investigation; Director



of Public Prosecution; Director of Immigration and Registration of Persons; Officer in Charge of the Flying Squad – Kenya Police Service; Officer Commanding Police Station – Githunguri; Officer Commanding Police Station – Lari; Officer Commanding Police Station – The Inland Container Depot; Officer Commanding Police Station – Jomo Kenyatta International Airport (JKIA); Cabinet Secretary – Ministry of Transport, Infrastructure, Housing and Urban Development; Principal Secretary – Ministry of Transport, Infrastructure, Housing and Urban Development; Fred Okengo Matingi; Paul Kihara Kariuki; Gordon Kihalangwa; Joseph Boinnet; George Kinoti; Said Kiprotich; Joseph Munywoki; Alexander Muteshi; James Macharia; Paul Mwangi Maringa; Japheth Koome (hereafter 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th & 25th Defendant/Defendants).

4. He further states that he was unlawfully and illegally declared persona non grata in Kenya, by his own government, and for the past five (5) years has been fighting for his very existence and recognition as a Kenyan citizen. He goes on to depose that he filed the subject suit with great anticipation and hope that he would soon be back in the country pursuant to a several Court orders; and that returning to the country would have given him a chance to prosecute the suit effectively, efficiently and expeditiously. However, this object was rendered impossible by the Defendants’ flagrant and blatant disregard of Court orders.
5. He states that the subject suit was dismissed barely ten (10) days of his return to the country following the installation of a new government, whereas the Defendants had earlier on barred him from entering the country and issued travel bans communicated by way of Red Alerts to Airlines, to deny him onboarding their flights to Kenya. That upon the said Red Alerts and travel bans being lifted, he acquired a valid passport on 16.09.2022, and travelled back to Kenya on 20.10.2022. He maintains that upon his return to Kenya, he immediately instructed counsel, who upon perusing the Court file realized that the matter had come up on 14.10.2022 for Notice to Show Cause (NTSC) why the suit should not be dismissed and was subsequently dismissed.
6. He complains that the dismissal is prejudicial, especially as he is not to blame for failing to prosecute the matter; that a dismissal order is draconian and arbitrarily drives the Plaintiff from the seat of justice, and hence ought to be sparingly issued. Asserting the merits of his case and the constitutional right to be heard, he states that the case ought to be heard and determined on merit. That the Defendants will not suffer prejudice if the motion is allowed. In conclusion, he deposes that the motion has been brought in good faith, timeously and in the interest of justice.
7. The 1st to 14th Defendant opposed the Plaintiff’s motion by way of Grounds of Opposition dated 23.02.2023 to the effect that ;- that the notice of motion offends Section 1A, 1B, 3A and 63(e) of the CPA; that the motion offends Article 159(2)(b) of *the Constitution* of Kenya; that the motion offends the right to access to justice as set out in Article 48 of *the Constitution* of Kenya; that the motion is without merit, is misconceived, misplaced and therefore an abuse of the Court process and ought to fail; and that the application is a waste of precious Court’s time raising as it does, issues predicated on a wrong premise arising from non-disclosure of material information, and should therefore be dismissed with costs.
8. The 16th Defendant equally opposed the motion by way of Grounds of Opposition dated 08.06.2023. Which state that delay in setting down the suit for hearing and in applying for reinstatement, is long and inordinate; that the reasons advanced by the Plaintiff for failing to set down the suit for hearing are not reasonable, genuine, credible and tenable; that justice can no longer be done in this matter as a result of delay; that in the event the orders sought are granted, the 16th Defendant will be prejudiced as he is no longer has access to The Office of the Attorney General, which he was occupying at the time of the suit to enable him respond to the suit; that under Order 5 Rule1(6) of the CPR, the suit against



- the 16th Defendant has abated as he had never been served with summons to enter appearance; and that the suit in any event, violates Section 8 of The Office of the Attorney General Act, 2012.
9. The 17th Defendant on his part opposed the motion by way of a replying affidavit dated 03.11.2023. Therein deposing that since the Plaintiff filed suit, he did not make any attempts to move the Court for over three (3) years, and that despite service of the NTSC upon the Plaintiff via the same email address captured in his Notice to Act in Person, he did not defend the NTSC leading to the dismissal of the suit and that the Plaintiff is guilty of delay. He asserts that the Plaintiff's presence was irrelevant to prosecution the suit as manifested by the fact that the suit was filed while the Plaintiff was outside the Country. He contends that dismissal of suits for want of prosecution gives effect to the principle of expeditious justice in line with Article 159(2) of *the Constitution* and Section 1A & 1B of the CPA.
 10. Stating moreover that, the Plaintiff has not approached the Court with clean hands having perjured himself by stating that he only became aware of the status of the suit upon perusal of the file by counsel while no explanation has been offered for the delay between service of the NTSC and filing of the present motion. That reinstatement of the suit defeats equity because upon his retirement he lost ready access to documents in support of his defence, having ceased to hold the office of Director of Immigration and Registrations of Persons. In conclusion, he deposes that the motion lacks merit and ought to be dismissed with costs.
 11. The 18th Defendant equally opposed the motion by way of a replying affidavit dated 23.02.2023. He views the motion as frivolous, vexatious, an abuse of the Court process and unmerited. Asserting that since filing the suit, the Plaintiff went into slumber for close to three (3) years and deliberately neglected to move the Court to progress the suit. Which delay is inordinate and inexcusable and contrary to the dictates of Article 159(2)(b) of *the Constitution*. He contends that the Plaintiff's explanations for his default consist of mere excuses and eschews information on the exact dates when he discovered the dismissal order. Besides, that the NTSC was duly served upon the Plaintiff using the email address provided in his pleadings, and that pursuant to Chief Justice's 2020 Practice Directions, followed by the January of 2022 High Court Practice Directions, the use of technology was adopted to enhance service delivery including facilitation of electronic filing of pleadings, service processes and virtual hearings of matters.
 12. Concluding therefore that the reasons advanced by the Plaintiff for failing to timeously prosecute the suit are disingenuous, there being no bar to his employing the available technology, all evidencing that the Plaintiff lost interest in his suit. In summation, he asserts that the Plaintiff's inaction in prosecuting this suit has occasioned him prejudice and the motion ought to be dismissed with costs.
 13. The 22nd Defendant on his part opposes the motion by way of Grounds of Opposition dated 11.10.2023 to the following effect. That the application is misconceived and is an abuse of the process of the Court in reference to and as against the 22nd Defendant; that the 22nd Defendant was served with the present application on 18.09.2023, close to a year after filing in Court despite numerous directions by the Court to do so; that delay in prosecuting the application is consistent with the Plaintiff's delay and failure to prosecute the suit, which was the principal reason for the dismissal of the suit; and that the main ground advanced by the Plaintiff for reinstatement of the suit, namely, that he was out of the country and therefore unable prosecute the suit, does not lie, as he had retained counsel at the time, and moreover, the Court has been hearing and determining matters virtually for the past three (3) years.
 14. Further grounds state that under Order 5 Rule 1(6) of the CPR, the suit against the 22nd Defendant has abated as the 22nd Defendant has never been served with summons to enter appearance; that granting of the orders sought by the Plaintiff at this stage would be prejudicial to the 22nd Defendant as it will result in reviving a suit against the 22nd Defendant who no longer serves as the Director General of



- the Directorate of Immigration and therefore is therefore non-suited to participate in this case in his individual capacity; and that the motion manifests an attempt by a party to litigate at leisure, in a tardy and slovenly fashion, at the expense of the 22nd Defendant, while dissipating the Court's resources , and consequently the application ought to be dismissed with costs.
15. By his supplementary affidavit in response to 18th Defendant's replying affidavit, the Plaintiff swore that at all material times relevant to the subject suit, he was acting in person in the matter. That on 28.03.2018 Odunga, J. (as her then was) in Nai. Const. Pet. No. 51 of 2018, convicted the 18th Defendant for Contempt of Court and this Court ought to deny him audience. He further asserts that the 18th Defendant has not satisfied the orders for payment of damages and costs made by Aburili, J. on 29.03.2018 ; that the 18th Defendant is privy to the facts leading to the present proceedings; that it was common knowledge that the Plaintiff was out of the country for the last four (4) years and six (6) months ; and that the NTSC was neither served on him physically nor electronically. He concludes by asserting that he only returned to Kenya on 20.10.2022 and upon discovering the suit was dismissed, had instructed counsel to file the present motion. He asserts that it is in the interest of justice that the suit be reinstated and determined on the merits.
 16. The 17th Defendant's motion seeks inter alia that the 17th Defendant's name be struck off from the suit; and that consequently, all pleadings be amended to reflect that the 17th Defendant is not a party herein. The motion invokes among other provisions Sections 1A, 1B & 3A of the CPA, Order 1 Rule 14 of the CPR, Section 22 of the *National Government Co-ordination Act* and Section 12 & 16 of the *Government Proceedings Act*. It is based on grounds thereon as amplified in the affidavit sworn by the 17th Defendant. To the effect that he was duly appointed as the Director of Immigration and Registration of Persons from 21.08.2014 to 02.03.2018 following which he was appointed, and served until 24.07.2019 as Principal Secretary, Department of Immigration and Registration of Persons before moving to the Ministry of Defence, as Principal Secretary. That at all material times relevant to the suit he neither had any personal interactions with the Plaintiff nor carried out any acts in his personal capacity. And hence his joinder in the suit in his personal capacity is malicious, vexatious and an abuse of the Court process, more so as the offices he held are named in the suit as the 3rd and 7th Defendant respectively.
 17. He asserts that, in any event, it is the 2nd Defendant who has the power to order and or direct a person's removal from the territory of Kenya through issuance of a deportation order and not the 3rd Defendant. That it was the 2nd Defendant who on 06.02.2018 issued a declaration under Section 33(1) and 43 of the *Kenya Citizenship and Immigration Act*. He asserts that in executing his duties as a state officer, he acted dutifully and as directed by law. He asserts that the Plaintiff's suit is malicious citing Section 22 of the *National Government Co-ordination Act* which grants him immunity against any claim for actions done in the course of his work as the 3rd Defendant.
 18. Further that given his retirement on 05.12.2022 after many years of public service, he views the claim against him in his personal capacity as ill-conceived, in bad faith, intended to frustrate his peaceful retirement and to embarrass him. He concludes by deposing that it is only fair and just that his name be struck off from the suit with costs, and stating that no party will suffer loss or prejudice if his motion herein is allowed.
 19. The Plaintiff opposes the 17th Defendant's motion by way of a lengthy and repetitive replying affidavit dated 21.08.2023. He attacks the motion by deposing that on 02.02.2018 the Defendants destroyed his house using explosives, tortured and detained him incommunicado until 06.02.2018 when they forced him out of the country and physically blocked him from returning to Kenya until 22.10.2022. He further deposes that on 27.03.2018 Aburili, J. ordered the Defendants to release him so that he



- could appear before the Court in Nai. Const. Pet. No. 51 of 2018 but they defied the Court Order, and resultantly, on 28.03.2018 Odunga, J. (as he then was) convicted the Defendants including the 17th Defendant for contempt of court . That in a decision by Mwita, J. in another constitutional petition, found the 17th Defendant and his co-defendants personally and officially liable in respect of illegal actions they carried out in violation of the Plaintiff's constitutional rights. Therefore the 17th Defendant's argument that he should not be named as a defendant in his personal capacity constitutes a collateral attack on the decision of Mwita, J. from which no appeal was preferred.
20. The Plaintiff further asserts that the cause of action was commenced in 2019 while the 17th Defendant was working as a senior officer in the Government and because of his repeated defiance of Court orders, he enjoys no immunity from civil liability either while employed by the Government of Kenya or retirement in private life. Hence, granting the Defendants the relief sought would amount to encouraging defiance of Court orders and institutionalizing the culture of impunity by few powerful and influential individuals such as the 17th Defendant or the Defendants. In summation, the Court was urged to dismiss the 17th Defendant's motion with costs.
21. By way of a further affidavit the 17th Defendant reiterated that the 2nd Defendant was responsible for issuing the declaration under Section 33(1) and 43 of the [Kenya Citizenship and Immigration Act](#) to the effect that the Plaintiff was not a Kenyan Citizen and his presence was inimical to the national interest. That the Plaintiff's inability to return to the Country for more than three (3) years after he left the Department of Immigration is a key indicator that the 17th Defendant did not in any way affect or influence the Plaintiff's deportation or inhibit his return to Kenya; that at no time did he have the power or authority to deny the Plaintiff or any person the right to be in Kenya; and that he neither acted in excess of his powers as Director of Immigration and Registration of Persons in the deportation of the Plaintiff outside of his obligatory duties, nor was he involved in any personal capacity in his deportation. He further deposes that he is not in contempt of the various orders issued by the Court and all complaints by the Plaintiff are intended to convolute the suit in order to adversely portray him as a wrongdoer.
22. He protests his asserted erroneous joinder to the suit for the reasons. And contends that the Plaintiff's complaints relate to actions by the Department of Immigration rather than actions performed in his personal capacity; that as the Director of Immigration and Registration of Persons he was legally bound to effect the directive of the 2nd Defendant issued on 06.02.2018; that he is not a necessary party to the suit since the Director of Immigration and Registration of Persons is enjoined as the 7th Defendant while the Principal Secretary, Department of Immigration and Registration of persons is enjoined as the 3rd Defendant and the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government as the 2nd Defendant; that the Plaintiff has not demonstrated that the actions complained of were done outside of his duties and or in pursuit of personal interests; and that by dint of Section 4(3) of the [Government Proceedings Act](#) the Plaintiff has wrongfully instituted proceedings against him. He therefore urged the Court to allow his motion as prayed.
23. Both motions were canvassed by way of written submissions with oral highlighting of the same. The Plaintiff filed submissions dated 24.04.2023 and 29.09.2023 in support of his motion and in opposition to the 17th Defendant's motion. Highlighting his submissions in person, the Plaintiff contended that the dismissed suit was important as it revolved around principles of the rule of law and constitutionality. He argued that nobody is above the law and that the suit arises from egregious abuse and or violation of his rights as documented in his various affidavits before the Court. He further contended that the Defendants as senior government officers, abused their positions and deprived him of his right to basic necessities and when the Defendants were eventually ordered to produce him in



- Court they instead forced him onto a flight to Canada. That the Defendants' defiance of Court orders led to the present suit.
24. He asserted that there was no evidence that the NTSC was served upon him and or whether the Defendants entered appearance and filed their respective defences, and hence the Defendants have no standing before Court. Adverting to previous litigation, he asserted that the Defendants are guilty of abuse of the process of the Court having failed to comply with Court orders to purge their contempt. It was his submission further that he was unaware of the NTSC given the circumstances of his forceful and illegal deportation, and therefore had no opportunity to respond or attend to the NTSC. He thus maintained that there was no delay on his part as no defences had been filed by any of the Defendants.
 25. He proceeded to submit, relying on his affidavit material, that the Court has wide latitude to grant his application in the interest of justice and for the benefit of the parties before Court. Stating that he would suffer prejudice if his motion was declined, an eventuality liable to render the outcomes in his constitutional petitions a nullity. Concerning the 17th Defendant's motion, he contended that the said defendant cannot hide behind the garb of his official duties for violation of *the Constitution*. Moreover, that the 17th Defendant's plea of immunity for his actions had been earlier dismissed by Odunga and Mwita, JJ in their respective decisions. In conclusion, he urged the Court to allow his application and dismiss the 17th Defendants' application.
 26. Mr. Ngatia, Senior Counsel (SC) appearing for the 17th Defendant, while addressing the Plaintiff's motion asserted that the issue for consideration was whether the suit ought to be reinstated and not whether the suit was merited. He pointed out that the first NTSC was issued seven (7) months before the second NTSC and served upon the Plaintiff's counsel on record. That since commencement of the suit, the Plaintiff took no progressive action for three (3) years leading to its dismissal. He further asserted that there is no explanation for the Plaintiffs' apathy and therefore the Court ought to find that the Plaintiff's motion lacks merit. That dismissal of the suit is anchored on the imperative of Article 159 of *the Constitution* for expeditious dispensation of justice, which cuts both ways. In summation, he relied entirely on the response to the Plaintiff's motion as part of his submissions.
 27. With respect to the 17th Defendant's motion, Senior Counsel reiterated the affidavit material supporting the motion and reiterated that the suit has been brought against the 17th Defendant both in his personal capacity for duties executed in his official capacity as well as his previous office, based on a similar cause of action. Citing the decision in *Kenya Anti-Corruption Commission v Judith Marilyn Okungu & Another* [2013] eKLR and Section 22 of the *National Government Co-ordination Act*, counsel argued that a public officer cannot be enjoined in a suit concerning exercise of their duties. Urging the court to find that the 17th Defendant, now retired, should not be harassed by suits related to his former official positions, that essentially portend prejudice to him in raising a defence. He concluded by contending that the Attorney General was a sufficient party to the proceedings in accordance with the *Government Proceedings Act*.
 28. On behalf of the 1st to 14th Defendant, Mr. Menge began by associating himself with submissions by Mr. Ngatia, SC. Counsel argued that the orders sought by the Plaintiff are not tenable as his motion to reinstate the suit is frivolous and without merit; that the Plaintiff has not given reasons for the delay in the prosecution of the suit since it was filed and only took steps upon its dismissal; and that the application offends the provisions of Article 159(2) of *the Constitution* and the overriding objective of the CPA regarding the expeditious disposal of Court proceedings. The decisions in *Moses Mwangi Kimari v Shammi K. Thomas* [2014] eKLR, *Omari Shee Kisahafu v Kwale International Sugar Company Ltd* [2020] eKLR and *Kiiru M'mugambi & 39 Others v Moses Kirima Meenye & Kirima Advocates & 3 Others* [2020] eKLR were called to aid in the latter regard.



29. Counsel further argued that the Plaintiff and his counsel ought to have been vigilant in the suit and the delay in prosecuting it was inordinate and violated 1st to 14th Defendant's right to expeditious dispensation of justice. He concluded by asserting that the Plaintiff slept on his rights despite dragging the Defendants to Court and therefore a finding that delay in prosecuting the suit for three (3) years was inordinate, ought to be made.
30. On behalf of the 16th Defendant, Mr. Nyaburi adopted his response and written submissions. His submissions were three-pronged. First, while citing the provisions of Order 5 Rule 1 of the CPR, he contended that the 16th Defendant was never with summons to enter appearance, and the suit against him having thus abated, there was nothing capable of reinstatement. He further argued that the suit offends Section 8 of The Office of Attorney General Act and Article 156(2) of *the Constitution* on grounds that the 16th Defendant is no longer occupying the office of the Attorney General and hence no proceedings can be brought against him concerning actions taken during exercise of official duties. Therefore, the suit is bad in law, counsel here citing a slew of decisions. Including *Skeeter Kwamboka v Water Resources Management Authority* (now known as Water Resources Management Authority; Oasis Part Self Help Group (suing through John Mutinda) (Interested Party) & another [2018] eKLR, *Abdulbasit Mohamed Ahmed Dahman & another v Fidelity Commercial Bank Limited* [2016] eKLR and *Githu Muigai & another v Law Society of Kenya & another* [2015] eKLR.
31. Secondly, counsel posited that the criteria for reinstatement of the Plaintiff's suit has not been satisfied, because the suit filed in 2019 was dismissed in 2022, yet no explanation for delay has been offered. Further, the motion was filed a month after the suit was dismissed with no explanation for the delay, all in violation of the Defendants' right to just and expeditious resolution of disputes. It was submitted a fair trial is not possible due to inability by the retired Attorney General to access requisite evidentiary material necessary to mount his defence.
32. Thirdly, and related to the first argument, it was asserted that the reasons advanced in support of the Plaintiff's motion are not tenable on because after the filing of the suit, Court proceedings moved to online platforms which the Plaintiff could have utilized to prosecute his suit. That the Plaintiff having electronically filed other suits after 2020 ought to have utilized the same online platforms to prosecute his suit despite being out of the country. Counsel thus urged the Court to dismiss the Plaintiff's motion with costs.
33. Mr. Kichwen on behalf of Mr. Odoyo, for 18th Defendant relied in toto, on the 18th Defendant's written submissions before this Court, the gist of which addressed the Plaintiff's motion. Addressing the singular issue whether the Plaintiff's motion ought to be allowed, the submissions cite Section 1B of the CPA, Order 17 Rule 2(1) of the CPR, and the cases of *Kiiru M'Mugambi & 39 Others v Moses Kirima Meenye & Kirima Advocates & 3 Others* [2020] eKLR and *Thathini Development Company Limited v Mombasa Water & Sewerage Co. & Another* [2020] eKLR. And asserted that since filing the suit in 2019 the Plaintiff showed disinterest in prosecuting it until its dismissal in 2022 and that no tenable explanation for the delay in its prosecution has been advanced. Or for the Plaintiff's failure to utilize the court's online platforms in this regard. It was further argued that the 18th Defendant's departure from his previous office adversely impacts upon his ability to effectively defend himself in the suit due to the inevitable lapses in human memory on account of passage of time. The Court was urged to decline the invitation to exercise its discretion in favour of the Plaintiff and consequently dismiss the motion with costs. Counsel here relying on the case of *Jasbir Singh Rai & 3 Others v Tarcholan Singh Rai & 4 Others* [2014] eKLR.
34. Mr. Mugo who appeared for the 19th Defendant elected to adopt the responses and submissions made on behalf of 1st to 14th Defendant and 16th Defendant respectively.



35. Mr. Anami, appearing on behalf of the 22nd Defendant relied on his grounds of opposition and submissions made in opposition to the Plaintiff's motion while also associating himself with the 17th Defendant's submissions in opposition to the Plaintiff's motion and in support of his motion. Reiterating the 16th Defendant's submissions regarding the provisions of Order 5 Rule 1 of the CPR, counsel contended that the 22nd Defendant was never served with summons hence the suit against him had equally abated and is thus not capable of reinstatement. He maintained that joinder of the 22nd Defendant was an afterthought and brought for the purpose of vexing him and amounts to abuse the process of the Court. Finally, he urged the Court to dismiss the Plaintiff's motion or in the alternative, to make a finding that the suit against the 22nd Defendant has already abated for want of service of summons.
36. On behalf of the 1st Interested Party, Mr. Kadir, associated himself with the Plaintiff's submissions before submitting that the interest of justice must prevail even where delay in prosecution of suits is exhibited; that every party to proceedings should have a reasonable opportunity to ventilate their case without disadvantage, which opportunity the Plaintiff herein missed on account of being in exile. The case of Njoroge Kimondo & Anor v J.W.M [2018] eKLR was called to aid in the foregoing regard. Further, placing reliance on the decision in Jim Rodgers Gitonga Njeru v Al-Husnain Motors & 2 Others [2018] eKLR, counsel contended that the Defendants have focused on the Plaintiff's duty but have correspondingly failed to demonstrate what prejudice they stand to suffer if the motion for reinstatement of the suit is allowed. He urged the Court not to drive the Plaintiff away from the seat of justice but to allow him to ventilate his case.
37. In rejoinder, the Plaintiff maintained that he was not served with the NTSC by the Court and argued that upon manual filing of the suit, he served the pleadings upon the respective parties. But was hampered in progressing it by the circumstances obtaining and that he was not represented by counsel up until the firm of Adrian Kamotho Advocate came on record and discovered that the suit had been dismissed without notice to him. Contending further that victims of persecution who for the same reason fail to timeously prosecute their cases should not be driven from the seat of justice. The Court was further urged to take judicial notice of his treatment by the Defendants and to make a finding of fact on whether he had slept on his rights, asserting further that barring the reinstatement of his case would offend natural justice while appearing to condone impunity. In conclusion, he implored the Court to allow his motion and have the suit determined on its merits.
38. Mr. Ngatia, SC in a brief rejoinder reiterated that it is the Plaintiff who filed suit while in Canada, and hence the question of being handicapped to prosecute it is to no avail at this juncture. Concerning the 17th Defendant's motion, he maintained that would be heretical of *the Constitution* to assert that only justice to the Plaintiff matters and that each party must be accorded an opportunity to prosecute their case against accusations made. Counsel reiterating that the 17th Defendant was not responsible for the Plaintiff's alleged obstacles and would be prejudiced in his defence without access to material needed to mount a defence. He further challenged the service of summons upon the Defendants while asserting that the NTSC was served by email and particularly to the address used by the Plaintiff in his pleadings. Finally, he urged the Court to allow the 17th Defendant's motion while dismissing the Plaintiff's motion.
39. Regarding the 15th, 20th, 21st, 23rd, 24th, 25th Defendant and the 2nd Interested Party who did not to participate in the two motions, there is no evidence that they were served despite directions of the court.
40. The Court has considered the affidavit material and submissions in respect of the two motions. Ideally, the Plaintiff's motion would be considered first. However, in the court's view the issue relating to service of summons to enter appearance as canvassed by the 16th and 22nd and to some extent, the 17th



Defendant calls for preliminary consideration. Both the 16th and 22nd Defendant have relied on the provisions of Order 5 Rule 1(6) of the CPR to contend that due to the Plaintiff's non-service of summons to enter appearance, the suit against them abated, and as a consequence, there exists no suit capable of reinstatement against them.

41. Order 5 Rule 1 of the Civil Procedure Rules, addresses, issue of summons, by providing that; -

“(1) When a suit has been filed a summons shall issue to the defendant ordering him to appear within the time specified therein.

(2) Every summons shall be signed by the judge, or an officer appointed by the judge and shall be sealed with the seal of the court without delay, and in any event not more than thirty days from the date of filing suit.

(3) Every summons shall be accompanied by a copy of the plaint.

(4) The time for appearance shall be fixed with reference to the place of residence of the defendant so as to allow him sufficient time to appear:

Provided that the time for appearance shall not be less than ten days.

(5) Every summons shall be prepared by the plaintiff or his advocate and filed with the plaint to be signed in accordance with sub rule (2) of this rule.

(6) Every summons, except where the court is to effect service, shall be collected for service within thirty days of issue, failing which the suit shall abate”.

42. For purposes of this case, the above provision must be read together with Order 5 Rule 7 which states that save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant, and Order 5 Rule 8(1) which provides that wherever it is practicable, service shall be made on the defendant in person, unless he has an agent empowered to accept service, in which case service on the agent shall be sufficient. More importantly, the provision must be read through the prism of Articles 50 on right to a fair hearing to all parties and 159(2)(b) of the Constitution commanding that justice shall not be delayed, and sections 1A and B of the Civil Procedure Act (CPA) expressing inter alia that the “overriding objective of this Act and the rules made hereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the civil disputes governed by the Act.”

43. The brief history of this cause, based on a perfunctory perusal of the record is as follows. The suit was filed on 29.07.2019 after which, summons to enter appearance issued in respect of all the Defendants. The said summons were signed and sealed by the Court on 30.07.2019. Thereafter, the Plaintiff through his process server Maurice Mulinge proceeded to serve the 1st to 14th Defendants on various dates between 30.07.2019 and 07.08.2019. The affidavits of service were filed in that regard and are on record. With respect to the 15th to 25th Defendants, there is on record sets of the long expired signed summons to enter appearance, but there is no affidavit of service evincing service of summons prior to the dismissal of the suit for want of prosecution on 14.10.2022.

44. Despite the challenge raised by the 16th and 22nd Defendants in this regard, the Plaintiff did not deem it necessary to address the matter in his lengthy supplementary affidavit, only belatedly asserting such service on all defendants in his rejoinder submissions. Nor did the Plaintiff, upon notice of the challenge file affidavits of service in respect of the 15th to 25th Defendants, in answer to the challenge



raised. Thus, so far as the record goes, there is no proof of service upon the 15th to 25th Defendants of summons to enter appearance, as prescribed in Order 5 Rule 15 of the CPR.

45. The question next falling for determination is whether the suit has abated as against the 16th and 22nd Defendants, and by extension the 15th, 17th, 18th, 19th, 20th, 21st, 23rd, 24th & 25th Defendants. As earlier observed, Order 5 Rule 1(6) CPR dictates that every summons shall be collected for service within thirty (30) days of issue, failing which the suit shall abate. Concerning the objective underlying the requirement of service of summons to enter appearance the Court of Appeal in *Patrick Omondi Opiyo t/a Dallas Pub v Shaban Keah & another* [2018] eKLR stated that; -

“.....As stated earlier, the purpose of summons along with the plaint or other pleading is to notify the sued party that a suit has been filed against them and that they are required to file their defence within a particular time frame failing which the other party would be at liberty to request for judgment in default of filing a defence.

19. Service of summons accords the sued party the opportunity to be heard before any orders are issued against him/her. That is the essence of the rules of natural justice which all legal systems applaud.....”

See also; - *Equatorial Commercial Bank Limited v Mohansons (K) Limited* [2012] eKLR.

46. The Court of Appeal in the case *Misnak International (UK) Limited -V- 4MB Mining Limited c/o Ministry of Mining Juba, Republic of South Sudan & 3 Others* (2019) eKLR in concurring with the decision of Aburili J in *Law Society of Kenya vs Martin Day & 3 Others* (2018)eKLR adopted the sentiments of the leaned Judge as follows:

“It is not sufficient for a plaintiff to institute suit against a party. That party must be invited to submit to the authority of the court in order for the legal process of setting down the suit for trial to commence. The circumstances of this case are such that Summons must be served in the manner provided for in the rules to enable the defendants who have no registered office or business in Kenya submits to the jurisdiction of this court. It therefore follows that their knowledge of the existence of the suit is not sufficient enough to proceed against them. They may be aware of the suit but unless they are prompted by the summons in the manner provided for in the rules, the jurisdiction of this court is not invoked.”

47. It is noteworthy that the present suit was filed on 29.07.2019 when Order 5 Rule 1(6) provided that “every summons.... shall be collected for service within thirty days of issue or notification, whichever is later.....”. Pursuant to Legal Notice No. 22 of 26.02.2020, the said provision was amended by deleting the requirement of notification of issuance of summons. The place of Order 5 of the CPR generally and specifically Rule 1(6) thereof in civil litigation was recently discussed by the Court of Appeal in *Diamond Trust Bank Kenya Limited v Maingi & Another (Civil Appeal 58 of 2016)* [2023] KECA 712 (KLR). The Court observing that; -

- “29. The provisions of Order 5 rule 1 are elaborate. Service of summons upon a defendant is a pre-requisite to entering of appearance and defence of a suit. It is the responsibility of the plaintiff or his advocate to prepare the summons and file them together with the plaint. The summons are then signed by a judge or an officer appointed by the judge, and are to be collected for service within thirty days of issue or notification, whichever is later, failing which the suit shall abate. These provisions are, in our view, couched in mandatory terms.



The defendant's invitation to defend a suit arises only upon proper service of summons, failing which a defendant may seek to have the suit dismissed for want of service of summons.

30.

31. As per the provisions of Order 5 rule 1(2), it is the duty of the court where the summons are filed to sign and seal them. The summons cannot become ready for collection by the plaintiff before they are signed and sealed. It is only after they have been signed and sealed that the thirty days' period contemplated under Order 5 rule 1(6) can begin to run."

48. The Court further addressing a situation where service of summons is disputed, and abatement of the suit is asserted after the Defendant enters appearance and files a defence to the suit. The Court observed that; -

"33. Upon service of the plaint and the application dated 5th November 2009, the appellant instructed an advocate, who filed a Notice of Appointment of Advocates and affidavits in response to the application by the 1st respondent. Subsequently, having been served with the amended Plaint, the appellant instructed its advocate to come on record on its behalf. The appellant also filed a Statement of Defence, List of Witnesses and a Notice of Claim against the 2nd respondent. The logical conclusion to be made from the said events is that the appellant was made aware and/or was at all times aware of the suit by the 1st respondent, non-service of summons to enter appearance notwithstanding.

34. The appellant did not enter a conditional appearance and/or file defence "under protest". The appellant, in our view, waived the requirement of service of summons and/or acquiesced to the non-service of the same. The appellant's active participation as far as the 1st respondent's application dated 5th November 2009 is concerned could only be construed to mean that it was fully informed of the suit against it and was ready to proceed with the same.

35. In *Industrial and Commercial Development Corporation v Sum Model Industries Limited* [2007] eKLR, the Court held;

"...whether or not a valid summons to enter appearance was served on the appellant does not, on the facts and circumstances of this case, vitiate the proceedings subsequent to such service. The appellant without any hesitation or protestation filed a written statement of defence and participated in the proceedings of the case without any complaint."

36. It is our considered view that, where a defendant has entered appearance or appointed counsel, and has proceeded to file a defence to the suit without protest, the purpose of the summons is spent or considerably diminished, and that any defect in the summons must be considered as having been waived or acquiesced by the defendant. Subsequently, the defendant cannot be heard to complain about delay or failure by the plaintiff to serve summons to enter appearance. It is vain pedantry to do so."



49. Therefore, returning to the 16th and 22nd Defendant's assertions on abatement, the Defendants had neither entered appearance nor filed defence statements evidently being unaware of the claim against them. This Court had earlier addressed itself to the fact that the summons were sealed and issued by the Court on 30.07.2019, and therefore by dint of Order 5 Rule 1(6) of the CPR, the suit was to abate against the respective Defendants by operation of the law if the Plaintiff failed to collect the summons for service on or before the 30.08.2019.
50. There are original copies of the long-expired summons on record and the Plaintiff has failed to demonstrate collection or service of the summons in dispute, while the return of service by Maurice Mulinge, proves that summons in respect of the 1st to 14th Defendant were collected and duly served. As concerns the 16th and 22nd Defendants therefore, the suit stood abated long before its dismissal by operation of the law, and their late entry in the suit cannot cure the Plaintiff's default.
51. By parity of reasoning, the suit as against the 15th, 17th, 18th, 19th, 20th, 21st, 23rd, 24th & 25th Defendants stood similarly abated. Indeed, some of these Defendants, such as the 15th, 20th, 21st, 23rd, 24th and 25th Defendants were not even served with the Plaintiff's present motion despite repeated court orders in that regard. Therefore, no orders could issue against them in the circumstances, so far as the Plaintiff's motion was concerned. It is paradoxical that while lamenting non-service of the NTSC and emphasizing his right to be heard in his case, the Plaintiff did not feel obligated to take prompt and necessary steps to serve summons to enter appearance, or his motion upon some of the parties he dragged to court so that they too could be heard.
52. Considering the foregoing findings, the 17th Defendant's motion, seeking that the 17th Defendant's name be struck off from the suit is rendered moot. Be that as it may, it is the court's considered position that, even if it had been found that the suit brought against the Defendants above had not abated, the names of the said Defendants were liable to be struck out from the suit upon reinstatement, on the following grounds.
53. The Plaintiff named as defendants the Attorney General and the respective public offices previously occupied by the said Defendants, the latter who are equally sued in their personal capacities, despite the statutory immunities accorded to several of them. These immunity provisions include section 8 of the Office of the Attorney General Act (regarding the 16th Defendant), section 22 of the [National Government Co-ordination Act](#) (regarding the 15th, 16th, 17th and 23rd Defendants). In justifying this action, the Plaintiff by his affidavit raised certain factual matters not pleaded with any particularity against the said Defendants in his plaint. The caselaw cited by the Defendants, including *Kenya Anti-Corruption Commission v Judith Marilyn Okungu* (2013) eKLR and *Githu Muigai & Anor. v Law Society of Kenya & Another* (2015) eKLR clearly supports the immunity asserted.
54. Further, the lament especially by the 16th, 17th and 22nd Defendants concerning likely prejudice in mounting their defence, arising from lack of access to offices they held at the material time does not appear idle. Or confined to them alone as it is a matter of public notoriety that other Defendants sued in their private capacities and who previously held public offices have since been replaced in the new government that came to office in 2022. Moreover, the Attorney General having been enjoined as the 2nd Defendant under the provisions of section 12 of the [Government Proceedings Act](#), the joinder of the other Defendants both in their personal and official capacities, including a host of officers commanding police stations appears superfluous given the pleadings before the court.
55. Now turning to address the Plaintiff's motion essentially seeking the re-instatement of his suit, it is pertinent to reiterate at the outset that the Plaintiff's suit against the 15th, 16th, 17th, 18th, 19th, 20th, 21st,



22nd, 23rd, 24th & 25th Defendants had abated on or about 31.08.2019, long before the dismissal order. Therefore, no suit existed at dismissal or was capable of reinstatement as now sought by the Plaintiff.

56. This means that, the Plaintiff's suit subsisting at the time of the dismissal order herein was against the 1st to the 14th Defendants. The Plaintiff's motion invokes inter alia the provisions of Section 3A of the CPA as well as Order 12 Rule 7 of the CPR. The latter provision provides that "where under this order judgment has been entered or the suit has been dismissed, the court, on application, may set aside or vary the judgment or order upon such terms as may be just." Plainly, the said provision has no application in this matter. As to the former provisions, Section 3A of the CPA specifically reserves "the inherent power of the court "to make such orders as may be necessary for ends of justice or to prevent abuse of the process of the court".

57. The Plaintiff's suit was dismissed for want of prosecution on 14.10.2022 pursuant to a NTSC issued under Order 17 Rule 2 CPR. The Plaintiff being absent, the suit was dismissed under the latter Rule which provides that:-

- "(1) In any suit in which no application has been made or step taken by either party for one year, the court may give notice in writing to the parties to show cause why the suit should not be dismissed, and if cause is not shown to its satisfaction, may dismiss the suit.
- (2) If cause is shown to the satisfaction of the court it may make such orders as it thinks fit to obtain expeditious hearing of the suit.
- (3) Any party to the suit may apply for its dismissal as provided in sub-rule 1.
- (4) The court may dismiss the suit for non-compliance with any direction given under this Order.
- (5) A suit stands dismissed after two years where no step has been undertaken.
- (6) A party may apply to court after dismissal of a suit under this Order."

58. Though not invoked by the Plaintiff, Rule 2(6) above grants the Court jurisdiction to entertain an application of this nature. While the discretion of the Court to set aside a dismissal order is unfettered, a successful applicant is obligated to adduce material upon which the Court should exercise its discretion, or in other words, the factual basis for the exercise of the Court's discretion in their favor. In the case of Shah –vs- Mbogo and Another [1967] E.A 116 the rationale for the discretion was spelt out as follows: -

"The discretion to set aside an ex-part judgment is intended to be exercised to avoid injustice or hardship resulting from accident, inadvertence or excusable mistake or error but it is not designed to assist a person who has deliberately sought whether by evasion or otherwise to obstruct or delay the cause of justice."

59. The principles enunciated in Shah –vs- Mbogo (supra) were further amplified by Platt JA in Bouchard International (Services) Ltd vs. M'Mwereria [1987] KLR 193. Although the Courts in the above cases were contemplating applications to set aside exparte judgments, the principles pronounced therein apply with equal measure in this matter. Indeed, the dismissal order issued herein can be construed to be the equivalent of a judgment, as it determined the suit conclusively by way of dismissal.

60. The Plaintiff's explanation as found in his affidavit material is to the following effect. First, he contends that between early 2018 and October 2022 he was unlawfully and illegally declared persona non grata



in Kenya, by the Kenyan government and was thus unable to prosecute the suit. Secondly, that at all material times to the dismissal of his suit, he was acting in person. Thirdly, he asserted that the NTSC was not served on him physically or electronically and upon his return to Kenya on 20.10.2022, he instructed counsel who on perusing the file discovered that the suit was dismissed on 14.10.2022.

61. The gist of the Defendants' response to the Plaintiff's motion is that delay in prosecution of the suit was inordinate; that no reasonable explanation has been offered for the delay; that the Plaintiff had every opportunity to prosecute the suit remotely using the court's virtual platform despite his physical absence from the country; and the NTSC was duly served on all the parties.
62. Since the filing of the suit in 2019 and activity related to service ending in August 2019, was no step was taken by the Plaintiff to progress the matter for three years. Therefore, the Court issued a NTSC initially for 24.02.2022 and later for 14.10.2022. When the NTSC came up for hearing on the latter date, the Plaintiff was absent and the court ordered that; -

“Notice having been given to show cause why this suit should not be dismissed and there being no satisfactory response, the suit is hereby dismissed under Order 17 Rule 2 of the Civil Procedure Rules.”
63. A cursory review of Case Tracking System (CTS) and the record before the Court shows that the Plaintiff was until the dismissal order acting in person. On 20.11.2022 the firm of Adrian Kamotho Advocates placed themselves on record and thereafter filed the Plaintiff's motion on 25.11.2022. It is not disputed that the Plaintiff was not within the Republic of Kenya at the time of filing the suit. That said, it is a matter of public record that as early as 2020 the Judiciary Leadership transitioned court process and proceedings to electronic and virtual platforms at the onset of the Covid-19 Pandemic.
64. As rightly pointed out by some of the Defendants, nothing precluded the Plaintiff from availing himself of the court virtual and electronic platforms in the progression and prosecution of his suit remotely from whatever location he was domiciled at the time. Besides, it is evident that in the same period, the Plaintiff was able to prosecute other matters in the Constitutional and Human Rights Division. The explanation that he was physically absent therefore sounds more of an excuse than a solid reason for the Plaintiff's default. The delay herein is about three years, which though extensive, is in the court's view not inordinate in the peculiar circumstances of the case, and while the explanation given by the Plaintiff is not altogether persuasive, the court is prepared to grant him the benefit of doubt.
65. It is also pertinent that the suit herein was dismissed pursuant to a NTSC which, according to the record was sent by registered mail to the Plaintiff's and 1st Defendant's Kenyan postal addresses indicated in the pleadings. The Court Process Server's return of service indicates that the NTSC scheduled for 14.10.2022 was dispatched on 24.08.2022. The Plaintiff was acting in person in this period and returned to the country on 20.10.2022 going by his annexure marked MM2. The court is prepared to accept that the Plaintiff may not have had access to his postal address until his return to the country on 20.10.2022, and hence may not have had notice of the NTSC so as to respond. The right of every party to be heard at every stage of his suit is hallowed and the court will only deny it as last resort.
66. In *Pithon Waweru Maina v Thuka Mugiria* [1983] eKLR the Court of Appeal spelt out relevant considerations in such as the nature of the action, whether it is just and reasonable to grant the prayer for setting aside, the prejudice on the respondent (Defendants herein) and whether he can reasonably be compensated by costs for any delay occasioned. The Plaintiff's suit is founded on various alleged violations of rights and tortious actions on the part of the Defendants. Although extensive delay is unacceptable and offends the overriding objective in section 1A and 1B of the CPA, the likelihood of prejudice being visited upon the remaining Defendants appears unlikely. Besides, the court can make



directions to curb further unnecessary delays and expedite this suit filed five years ago. In the court's view therefore, despite past delay, justice can still be done between the remaining parties.

67. Weighing all relevant considerations, it appears that the justice of the matter lies in allowing reinstatement of the suit to facilitate the Plaintiff's right to be heard, as underscored by the Court of Appeal in *Vishva Stone Suppliers Company Limited v RSR Stone (2006) Limited* (2020) eKLR:

“Turning to the request to allow the applicant to exercise his now undoubted constitutionally underpinned right of appeal, the position is.... crystallized in the case of *Richard Ncharpi Leiyagu vs. IEBC & 2 Others* (supra); *Mbaki & Others vs. Macharia & Another* [2005] 2EA 206; and the Tanzanian case of *Abbas Sherally & Another vs. Abdul Fazaiboy*, Civil Application No. 33 of 2003; for the holding inter alia that:

- (i) the right to a hearing is not only constitutionally entrenched but it is also the corner stone of the Rule of law;
- (ii) the right to be heard is a valued right; and
- (iii) that the right of a party to be heard before adverse action or decision is taken against such a party is so basic that a decision which is arrived at in violation of it will be nullified, even if the same decision would have been reached had the party been heard, because, the violation is considered to be a breach of natural justice...”

See also *Richard Ncharpi Leiyagu v Independent Electoral and Boundaries Commission & 2 Others* [2013] eKLR.

68. In the result, the court will grant the Plaintiff's motion dated 25.11.2022 on the following conditions:

- a. The Plaintiff shall amend the plaint within 14 days to reflect that the remaining defendants in the suit pursuant to this ruling are the 1st to 14th Defendants.
- b. The Plaintiff shall fully prosecute his suit by 30th November 2024, failing which the suit will automatically stand dismissed with costs.

69. The costs in respect of the Plaintiff's motion are awarded to the 16th, 17th, 18th, 19th, and 22nd Defendants.

DELIVERED AND SIGNED ELECTRONICALLY AT NAIROBI ON THIS 27TH DAY OF JUNE 2024.

C. MEOLI

JUDGE

In the presence of:

For the Plaintiff: Mr. Moriasi h/b for Mr. Diro

1st to 14th Defendants: N/A

For the 16th Defendant: Mr. Kariuki h/b for Mr. Nyaburi

For the 17th Defendant: Mr. Kamau h/b for Mr. Ngatia, S.C

For the 18th Defendant: Mr. Odoyo

For the 19th Defendant: Mr. Mushoka h/b for Mr. Mugo



For the 22nd Defendant: N/A

C/A: Erick

