



REPUBLIC OF KENYA



**Stephenson & another v Lynch & 2 others (Civil Case 40 of 2019)
[2023] KEHC 21735 (KLR) (Civ) (24 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21735 (KLR)

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

CIVIL

CIVIL CASE 40 OF 2019

AN ONGERI, J

AUGUST 24, 2023

BETWEEN

MARK LLOYD STEPHENSON 1ST PLAINTIFF

UNIVERSAL RESOURCES INTERNATIONAL LTD 2ND PLAINTIFF

AND

MICHAEL G. LYNCH 1ST DEFENDANT

HENRY M. MWALUGHA 2ND DEFENDANT

GILBERT MZEE 3RD DEFENDANT

RULING

1. The 2nd and 3rd defendants raised a preliminary objection dated April 19, 2023 against the plaintiffs' suit on the following grounds;
 - i. That the suit is ill advised, incompetent, prejudicing and an abuse of the court process.
 - ii. That the suit is defective for want of jurisdiction and that it violates section 13 of the *Environment and Land Act*.
 - iii. That the suit is scandalous, frivolous, vexatious and must be struck out/dismitted with costs.
2. I have considered the submissions by both parties in the preliminary objection filed herein dated April 19, 2023.



- 3. A perusal of the pleadings reveal that the plaintiffs are seeking injunctive orders to restrain all the defendants either by themselves or by their agents or any person purporting to act by them or through them from putting themselves forward as directors or officers of the 2nd plaintiff company or from issuing documents or interfering with the operations of the 2nd plaintiff company.
- 4. The defendants in their statement of defence are not seeking any counter claim in respect to use and occupation of land.
- 5. I find that the plaintiffs are also seeking general damages and I find that it is not true that this court lacks jurisdiction to hear this case.
- 6. I dismiss the preliminary objection dated April 19, 2023 and direct that parties comply with order 11 of the Civil Procedure Rules within 30 days of this date.
- 7. The costs of the preliminary objection to abide the cause.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 24TH DAY OF AUGUST, 2023.

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A. N. ONGERI
JUDGE

In the presence of:

- **for the 1st Plaintiff**
- **for the 2nd Plaintiff**
- **for the 1st Defendant**
- **for the 2nd Defendant**
- **for the 3rd Defendant**

