



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**CIVIL CASE NO 440 OF 2011**  
**FORMERLY NAKURU HCCC NO 299 OF 2009**  
**FORMERLY NAKURU HCCC 1227 OF 1996**  
**FORMERLY NAKURU HCCC 125 /93 AND NAKURU 132/93**

**EDWARD KINGS ONYANCHA MAINA**

**T/A MATRA INTERNATIONAL ASSOCIATES.....PLAINTIFF**

**VERSUS**

**CHINA JIANGSU CORPORATION.....1<sup>ST</sup> DEFENDANT**

**JAMES OCHIENG ODUOL.....2<sup>ND</sup> DEFENDANT**

**RPV WENDOH.....3<sup>RD</sup> DEFENDANT**

**JOSEPH NYAMU.....4<sup>TH</sup> DEFENDANT**

**MARY G. MUGO.....5<sup>TH</sup> DEFENDANT**

**K.H. RAWAL.....6<sup>TH</sup> DEFENDANT**

**JOHN PHILIP RANSLEY.....7<sup>TH</sup> DEFENDANT**

**HON. CHIEF JUSTICE.....8<sup>TH</sup> DEFENDANT**

**THE ATTORNEY GENERAL.....9<sup>TH</sup> DEFENDANT**

**RULING (5)**

1. In his Notice of Motion dated and filed on 28<sup>th</sup> September 2015, the Plaintiff herein sought several prayers as follows:-

**1. THAT the Rulings of the court dated:-**

**a. On 23.09.2015 (Makungu Deputy Registrar)**

**b. On 31.07.2015 (Mabeya J)**

**c. On 08.05.2014 (Ougo J)**

**d. On 17.01.2013(Odunga J) be recalled, reviewed, rectified, corrected the pertinent patent errors and mistakes of**

slip omissions apparent on the face of the court record making the said indicted and impugned in the alternative the ruling dated/delivered on 31<sup>st</sup> July 2015 be set aside and/or vacated *ab initio*.

e. THAT the Notice to Show Cause why Execution should not issue on 10.09.2015; the Warrants of Arrest in Execution of the Decree dated 15.7.1993 for Kshs 48,574,299.00 in Sequestration upon China Jiangsu IETC (sic).

f. Committal orders for two (2) years imprisonment of China Jiangsu IETC Corporation and James Ochieng Oduol t/a Ochieng Onyango Kibet & Ohaga Advocates including Cecil Lazaro Kuyo do issue forthwith upon China Jiangsu IETC Corporation (sic).

g. THAT the Multiplier Effect Factor figure 1114.6 representing 24% pa Compound Annuity rate for the past 26 years be adopted as multiplier effect factor figure in calculation of the quantum of the amount of compensation of damages due and payable consequent to the admissions and confessions of China Jiangsu IETC Corporation cum the judgment debtor.

h. THAT the court file Nairobi HCCC 440/2011 be consolidated with the entire court track records wef 03/03/1993 making inter alia:-

i. Nakuru HCCC 299/2009.

ii. Nairobi HCCC 1227/96

iii. Court of Appeal Civil Appeal CA 70/95

iv. Court of Appeal Civil Application NAI 259/95; CA 70/95

v. Court of Appeal Civil Application NAI 301/95; CA 70/95

vi. Court of Appeal Civil Application NAI 302/95

vii. Court of Appeal Civil Appeal CA 193/95

viii. Court of Appeal CA 194/95

ix. Court of Appeal Civil Application NAI 259/95 for further court orders/directions in the interest of justice and equity.

i. THAT the Co-Plaintiffs be enjoined forthwith.

j. THAT the costs incidental to the present application jointly and severally be condemned upon the 1<sup>st</sup> alias China Jiangsu IETC Corporation and the 2<sup>nd</sup> Defendant alias James Ochieng Oduol at the higher scale.

2. The 3<sup>rd</sup> to 9<sup>th</sup> Defendants filed Grounds of Opposition dated 23<sup>rd</sup> September 2019 in opposition to the said application. They submitted that the Plaintiff had sought to review decisions which he should have appealed against. They pointed out that a decree could not be enforced after the expiry of twelve (12) years, that the contempt had not been proven and that the prayer for consolidation was incompetent as the court lacked jurisdiction to consolidate Court of Appeal records. They added that the Co-Plaintiffs had not demonstrated why they should be enjoined herein as their fears could be dealt with under the Law of Succession.

3. In respect of the questions of enjoinder of the Co-Plaintiffs, the review of the Rulings that had been delivered and the committal and sequestration of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants, the issues were adequately dealt with at length in this court's Ruling No (1) of 30<sup>th</sup> July 2020. As this Ruling was to be delivered on the same day, this court did not find it necessary to regurgitate what it had stated in that said Ruling.

4. As regards the issue of Multiplier Effect Factor figure, this court had also observed in the said Ruling No (1) of 30<sup>th</sup> July 2020 that in his decision of 31<sup>st</sup> July 2015, Mabeya J had found and held that orders and judgments were made between 1993 and 17<sup>th</sup> February 2003 and being over twelve (12) years, they could not be enforced outside the limitation period provided in Section 4 of the Limitations of Actions Act Cap 22 (Laws of Kenya). This court had made a determination that it could not seat on appeal on the learned judge's orders as both courts were of equal and competent jurisdiction.

5. Further as had been stated in this court's Ruling No (1) of 30<sup>th</sup> July 2020 that on 17<sup>th</sup> January 2013, Odunga J set aside the interlocutory judgment and granted the Defendants leave to file their Defences. There was therefore no decretal sum where the Multiplier Effect Factor figure could be applied.

6. As was rightly pointed out by the 3<sup>rd</sup> to 9<sup>th</sup> Defendants, this court had no power to consolidate files from the Court of Appeal due to the hierarchy of courts which put the High Court below the Court of Appeal. In fact, this court still had no jurisdiction and/or power to consolidate files from other courts without the consent of the parties to a matter. Each matter is distinct and unless parties in the matter have consented, it must be dealt with by the court where it has been filed. If matters are related, then a party has to elect where to litigate his cause of action.

**DISPOSITION**

7. For the foregoing reasons, the upshot of this court's decision was that the Plaintiff's Notice of Motion application dated 28<sup>th</sup> September 2015 was not merited and the same is hereby dismissed with costs to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants herein. Costs will not be awarded to the 3<sup>rd</sup> to 9<sup>th</sup> Defendants as they are State Officers being represented by the 9<sup>th</sup> Defendant herein.

8. However, to avoid numerous applications being filed against them as well as against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants herein in respect of the same complaints that have been raised herein, it is hereby directed that the Plaintiff shall not file any application against them without leave of the court.

9. It is further directed that save for matters involving **Edward Kings Onyancha Maina vs China Jiangsu IETC Corporation & 8 Others** that were filed at the High Court of Kenya Milimani Law Courts Civil Division, all the other files should be returned to their respective Registries.

10. It is so ordered.

**DATED and DELIVERED at NAIROBI this 30<sup>th</sup> day of July, 2020**

**J. KAMAU**

**JUDGE**