



REPUBLIC OF KENYA



KENYA LAW
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**Mghangha & 2 others v Mwakesi (Land Case Appeal E018 of 2024)
[2025] KEELC 3297 (KLR) (23 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3297 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT VOI
LAND CASE APPEAL E018 OF 2024**

EK WABWOTO, J

APRIL 23, 2025

BETWEEN

FABIAN MGHANGHA 1ST APPELLANT

ALOICE MWAVULA MWASHIGADI 2ND APPELLANT

SAMSON NYANGE MWASHIGADI 3RD APPELLANT

AND

EVARESTA MWADIME MWAKESI RESPONDENT

RULING

1. This ruling is in respect to the Appellants application dated 1st April 2025 which seeks inter alia to vary and or set aside the orders of the court issued on 25th March 2025 and the said application is premised on the grounds on its face and supported by the affidavit sworn by Onesmus Mwinzi Advocate on the 1st April 2025.
2. Pursuant to the directions issued by this court on 3rd April 2025 it was directed that the said application be canvassed by way of written submissions. The Appellants filed written submissions dated 7th April 2025 in support of the application. No response or written submissions were filed by the Respondent as at the time the court retired to prepare its ruling and hence the application stands unopposed.
3. The main issue for determination is whether or not the said application is merited. Articles 48 and 50 of *the Constitution* guarantees every Kenyan a right to access to justice and fair hearing. Article 159 (2) d of *the Constitution* requires that justice shall be administered without undue regard to technicalities whereas Sections 3, 4 and 13 of the *Environment and Land Court Act* as read together with Section 1A, 1B and 3A of the *Civil Procedure Act* expects the court to strive towards substantive justice.
4. This court has carefully considered the application and the written submissions made in support of the same. It is the finding of the court that the application is merited and for the interest of justice,



this court proceeds to vary its earlier directions issued on 25th March 2025. It is the finding of the court that no prejudice shall be suffered by the Respondent since he is yet to file his written submissions in respect to the appeal and he shall equally have an opportunity to contest the same.

5. In view of the foregoing, the Appellants application dated 1st April 2025 is hereby determined as follows;
 - i. The directions issued by this court on the 25th March 2025 are hereby varied to the extend that the Appellants are hereby granted leave to file and serve their supplementary record of appeal and written submissions within 14 days from today.
 - ii. Upon service the Respondent shall have 14 days to file his written submissions in respect to the Appeal.
 - iii. Judgment of the court is reserved for delivery on the 29th May 2025.
 - iv. Each party to bear own costs of the application.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 23RD DAY OF APRIL 2025.

E. K. WABWOTO

JUDGE

In the presence of: -

N/A for the Appellants.

Mr. Mwzighe for the Respondent.

Court Assistant; Norah Chao.

