Molia v Jirma & 2 others (Environment & Land Case 018 of 2021)
[2025] KEELC 3298 (KLR) (23 April 2025) (Ruling)

Neutral citation: [2025] KEELC 3298 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ISIOLO

ENVIRONMENT & LAND CASE 018 OF 2021

JO MBOYA, J

APRIL 23, 2025

BETWEEN

VERONICA LEWIS MOLIA ..... PLAINTIFF

AND

IBRAHIM JIRMA ..... 1ST DEFENDANT

CABINET SECRETARY MINISTRY OF LANDS, COUNTY GOVERNMENT OF ISIOLO ..... 2ND DEFENDANT

ATTORNEY GENERAL ..... 3RD DEFENDANT

RULING

1. The Plaintiff approached the court vide Plaint dated the 5th February 2014 and wherein the Plaintiff sought various reliefs. The original Plaint was amended and subsequently re-amended resting with the re-amended Plaint dated the 10th July 2019.

2. Vide the Further amended Plaint dated the 10th July 2019; the Plaintiff has sought for the following reliefs [verbatim]:

    i. A declaration that the plaintiff is the owner of Parcel No. 184 (ISL-117/01/9) absolutely.

    ii. A permanent injunction restraining the 1st and 2nd defendants by themselves himself or through their agents or people working at his behest from entering, interfering and or dealing in any way with the plaintiff's quiet possession of parcel no 184 (ISL-117/01/9)

    iii. Costs of this suit and interest at court rates

3. the 1st and 3rd Defendants filed a statement of defence to the Further amended Plaint dated the 24th September 2020. The Further statement of defence under reference highlights various legal issues including that the suit beforehand does not disclose any reasonable cause of action or at all.

4. For coherence, paragraph 8 of the statement of defence under reference states thus;

> "8. Further and without prejudice to the foregoing, the Defendants aver that this suit failed to disclose any reasonable cause of action and the same be dismissed with costs. The suit is equally misconceived and improperly grounded in law."

5. The 2nd Defendant duly entered appearance and filed a statement of defence dated the 25th February 2014. For coherence, the statement of defence under reference was filed prior to and before the amendments under reference.

6. The instant suit came up for hearing on various occasions resting with the 2nd April 2025; when the court ordered and directed that the advocates for the parties do address the question as to whether the Plaintiff's suit captures and discloses a reasonable cause of action or at all. Furthermore, the court proceeded to and circumscribed the timelines for the filing and exchange of the written submissions.

7. The Plaintiff proceeded to and filed written submissions dated the 5th April 2025 whereas the 2nd Defendant filed written submissions dated the 7th April 2025. The two [2] sets of written submissions are on record.

8. The Plaintiff's submissions are dated the 5th April 2025 and wherein the Plaintiff has canvassed and highlighted two [2] salient issues. The issues raised and canvassed by the Plaintiff are namely; the suit beforehand discloses a reasonable cause of action; and that the court is seized of the mandate to compel National Land Commission to issue a letter of allotment in favour of the Plaintiff.

9. Regarding the first issue, learned counsel for the Plaintiff has submitted that the Plaintiff herein is the lawful owner of the prime plot within Isiolo Town described as PDP-TSl117/01/9 AKA parcel number 184 measuring 0.234HA. Furthermore, it has been contended that the Plaintiff has been in occupation and still in possession of the forementioned plot for over 40 years.

10. Additionally, it has been submitted that the Plaintiff claims as against the Defendants a declaration that the Plaintiff is the lawful owner of the suit plot, which is described vide PDP-TSl117/01/9 AKA parcel number 184 measuring 0.234HA.

11. Arising from the foregoing, learned counsel for the Plaintiff has submitted that the Plaintiff's suit which is predicated on the basis of the said PDP is lawful and legitimate. Furthermore, it has been averred that the suit beforehand espouses a reasonable cause of action worthy of being interrogated and investigated by a court of law.

12. Secondly, it has been submitted that even though the Plaintiff herein has not been issued with a letter of allotment, the court is seized of the requisite jurisdiction to compel and/or direct the National Land Commission [NLC] to issue the Plaintiff with a letter of allotment. To this end, it has been posited that the provisions of Article 249 [2] of *the Constitution* 2010 does not prohibit the court from making appropriate orders.

13. Arising from the foregoing, learned counsel for the Plaintiff has therefore submitted that the Plaintiff's suit discloses a reasonable cause of action and thus same deserves to be heard in the normal manner of proceedings. In addition, it has been contended that striking out of suits is a drastic measure and thus same ought to be deployed as a last resort.

14. Moreover, it has been submitted that the court ought not to strike out a suit where the suit is capable of being remedied and/or redeemed by way of an amendment. Furthermore, it has been submitted that the Plaintiff has since filed an application dated the 1st April 2024 seeking to amend the Plaint and to join inter-alia National Land Commission with a view to compelling same to supply the Plaintiff

with all record in their custody pertaining to PDP-TSl117/01/9 AKA parcel number 184 measuring 0.234H.

15. The 2nd Defendant filed written submissions dated the 7th April 2025 and wherein same has highlighted and canvassed two [2] issue[s]. The issues raised by the 2nd Defendant are namely; the Plaintiff herein has neither accrued nor acquired any lawful rights to the suit property capable of being protected by the court; and that the court is devoid of jurisdiction to compel National Land Commission to issue [sic] a letter of allotment in favour of the Plaintiff or any other person.

16. Regarding the first issue, namely; the Plaintiff herein has neither accrued nor acquired any lawful rights to the suit property capable of being protected by the court, it has been submitted that by the Plaintiff's own pleadings it has been conceded that the Plaintiff is yet to procure and obtain a letter of allotment to the suit property. Furthermore, it has been submitted that the Plaintiff's suit is premised and predicated on a PDP namely PDP-TSl117/01/9 AKA parcel number 184 measuring 0.234H.

17. Moreover, learned counsel for the 2nd Defendant has submitted that a PDP is preliminary document and same cannot constitute a basis for laying a claim to ownership of land either in the manner contended by the Plaintiff or otherwise.

18. Regarding the second issue, it has been submitted that National Land Commission is one of the independent constitutional commissions established vide *the Constitution* 2010. In addition, it has been contended that by virtue of being an Independent Constitutional Commission; same [National Land Commissions] is not subject to the direction[s] of any person or body in the discharge of its constitutional mandate.

19. Arising from the foregoing, it has been posited that the court is devoid and divested of jurisdiction to decree issuance of a letter of allotment in favour of the Plaintiff. In this regard, it has been submitted that no such order can issue and or be granted by the court.

20. The 1st and 3rd Defendants did not file any written submissions. At any rate, no written submissions are obtaining on the court e-platform [CTS].

21. Having reviewed the pleadings filed by the parties and upon consideration of the written submissions on record, I come to the conclusion that the determination of the question beforehand turns on two critical issues, namely; whether the Plaintiff's suit discloses a reasonable cause of action or otherwise; and whether the court can compel National Land Commission [NLC] to issue the Plaintiff with a letter of allotment or otherwise.

22. Regarding the first issue, namely; whether the Plaintiff's suit discloses a reasonable cause of action or otherwise, it is imperative to point out that the Plaintiff's claim is based on ownership of the suit plot on the basis of a PDP, namely; PDP Number-TSl117/01/9. For good measure, the plot being claimed by the Plaintiff is described and abbreviated vide the PDP number. The PDP number is PDP-TSl117/01/9 AKA parcel number 184 measuring 0.234H.

23. Furthermore, the Plaintiff's claim before the court is also predicated on the basis of [sic] occupation of the suit plot for more than 40 years. Nevertheless, there is no gainsaying that the suit plot which the Plaintiff is claiming constitute[s] public land which falls under the jurisdiction of the county government of Isiolo. No wonder the Plaintiff herein has impleaded [sic] the cabinet secretary ministry of land county government of Isiolo with a view to [sic] procuring allotment.

24. Having looked at the further amended Plaint, I have no doubt in my mind that the Plaintiff's claim is predicated on a PDP. In this regard, the question that does come to mind is whether a party, the Plaintiff not excepted, can procure any rights and/or interests over land on the basis of a PDP or otherwise.

25. To start with, it is important to underscore that a PDP is a preliminary legal document required for purposes of inter-alia allocation or alienation of land. Its purport is to authenticate and confirm whether the particular plot or piece of land which is the subject of the intended allocation or alienation is available for the designated purpose. Furthermore, it is not lost on this court that a PDP is a precursor and/or prelude to issuance of a letter of allotment subject to the requisite approval by the designated authorities.

26. To be able to understand the import and tenor of a PDP it is important to recall and reiterate the provisions of Section 3 of the Physical Planning Act, Chapter 286 Laws of Kenya [now repealed]. Instructively, it is the Physical planning Act [now repealed] which was in place at the time when the PDP predicating the suit beforehand was [sic] prepared.

27. For ease of appreciation, Section 3 of the Physical Planning Act [supra] stipulates thus;

    (d) a part development plan indicating precise sites for immediate implementation of specific projects or for alienation purposes;

28. Moreover, the place and importance of a PDP in the process of allocation or alienation of public land was also elaborated upon by the Supreme Court of Kenya in the case of Dina Management Limited v County Government of Mombasa & 5 others (Petition 8 (E010) of 2021) [2023] KESC 30 (KLR) (Constitutional and Human Rights) (21 April 2023) (Judgment

    104. The procedure for the allocation of unalienated land is laid out by the Environment and Land Court in Nelson Kazungu Chai & 9 others v Pwani University [2014] eKLR as follows:"...It is trite law that under the repealed Government Lands Act, a Part Development Plan must be drawn and approved by the Commissioner of Lands or the Minister for lands before any un-alienated Government land could be allocated. After a Part Development Plan (PDP) has been drawn, a letter of allotment based on the approved PDP is then issued to the allotees.

    131 .It is only after the issuance of the letter of allotment, and the compliance of the terms therein, that a cadastral survey can be conducted for the purpose of issuance of a certificate of lease. This procedural requirement was confirmed by the surveyor, PW3. The process was also reinstated in the case of African Line Transport Co Ltd v Attorney General, Mombasa HCCC No 276 of 2013 where Njagi J held as follows:

    > " Secondly, all the defence witnesses were unanimous that in the normal course of events, planning comes first, then surveying follows. A letter of allotment is invariably accompanied by a PDP with a definite number. These are then taken to the department of survey, who undertake the surveying. Once the surveying is complete, it is then referred to the Director of Surveys for authentication and approval. Thereafter, a land reference number is issued in respect of the plot 132. A part development plan (PDP) can only be prepared in respect to Government land that has not been alienated or surveyed..."

    105. This process is restated in African Line Transport Co Ltd v Attorney General, Mombasa, HCCC No 276 of 2003 [2007] eKLR where it was held that planning comes first, then surveying. A letter of allotment is invariably accompanied by a PDP with a definite number, which would then be taken to the Department of Survey for surveying. Thereafter, it is then referred to the Director of Surveys for authentication and approval. It is after that process that a land reference number is issued in respect of the plot.

106. We note that the suit property was allocated to HE Daniel T Arap Moi who was not a party to the suit. The 2nd to 6th respondents on the other hand at the trial court in the replying affidavit of Gordon Odeka Ochieng in response to ELC Petition 12 of 2017 stated that certain documents that were required to support the allocation of the suit property to HE Daniel T Arap Moi were missing. These were,

> " the letter of application addressed to the Commissioner of Lands seeking to be allocated the suit land; and a Part Development Plan (PDP) showing the suit property in relation to the neighbouring parcels of land."

107. We are careful to note that this court has no jurisdiction to revisit the factual findings of the superior courts, and we are limited to the court's jurisdiction under article 163(4)(a) in this case. It has not been disputed that indeed there was no evidence produced of the letter to the Commissioner of Lands seeking allocation of the suit property by the first registered owner, and there was no PDP before the survey was done. We therefore agree with the trial court and the appellate court that the allocation of the suit property to HE Daniel T Arap Moi was irregular.

29. The question that does arise, is whether the Plaintiff herein can purport to have accrued any lawful rights and/or interests or otherwise on the basis of a PDP. The answer to the said question is certainly to be in the negative.

30. In any event, it is common ground that even where a person has procured and obtained a letter of allotment, such letter of allotment by and of itself does not confer any title in favour of the bearer thereof.

31. In the case of Torino Enterprises Limited v Attorney General (Petition 5 (E006) of 2022) [2023] KESC 79 (KLR) (22 September 2023) (Judgment), the Supreme Court Court stated as hereunder;

> 57. The Respondent also challenged the letter of allotment on grounds that at the time of its transfer, the conditional thirty (30) days acceptance period had lapsed. As it turned out, the letter was also silent on whose behalf the commissioner of lands had made the allotment. Noting that the Commissioner of Lands by an allotment letter dated December 19, 1999 purported to allocate the suit property to Renton Company Limited. Thereafter, by a letter dated April 25, 2001, Renton Company Limited sought approval from the Commissioner of Lands to transfer the same to the appellant. The appellant's ownership is traced back to this allotment Letter even if subsequently registered under the Registration of Titles Act cap 281 (Repealed) on April 26, 2001.
>
> 58. So, can an allotment letter pass good title? It is settled law that an allotment letter is incapable of conferring interest in land, being nothing more than an offer, awaiting the fulfilment of conditions stipulated therein. In Dr Joseph NK Arap Ng'ok v Justice Moijo Ole Keiyua & 4 others *CA 60/1997* [unreported]; and in Gladys Wanjiru Ngacha v Teresa Chepsaat & 4 others HC Civil Case No 182 of 1992; [2008] eKLR, the superior courts restated this principle as follows:"It has been held severally that a letter of allotment per se is nothing but an invitation to treat. It does not constitute a contract between the offerer and the offeree and does not confer an interest in land at all " [Emphasis added].
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> 59. The pronouncement in Gladys Wanjiru and Dr Joseph NK Arap Ng'ok (supra) has been echoed in various Environment and Land Court decisions post the 2010 Constitution, including; Lilian Wanjeri Njatha v Sabina Wanjiru Kuguru & another, Environment and Land

Case No 471 of 2010; [2022] eKLR; John Elias Kirimi v Martin Maina Nderitu & 4 others, Environment and Land Suit No 320 of 2011; [2021] eKLR; and Kadzoyo Chombo Mwero v Ahmed Muhammed Osman & 11 others, Environment and Land Case No 42 of 2021; [2021] eKLR, to mention but a few.

60. Suffice it to say that an Allottee, in whose name the allotment letter is issued, must perfect the same by fulfilling the conditions therein. These conditions include but are not limited to, the payment of a stand premium and ground rent within prescribed timelines. But even after the perfection of an allotment letter through the fulfillment of the conditions stipulated therein, an allottee cannot pass valid title to a third party unless and until he acquires title to the land through registration under the applicable law. It is the act of registration that confers a transferable title to the registered proprietor, and not the possession of an allotment letter. In Peter Wariire Kanyiri v Chrispus Washumbe & 2 others, Environment and Land Court Case No 603 of 2017; [2022] eKLR, Kemei, J held as follows:"[15].In the case at hand, in the absence of any title registered in the name of the plaintiff, the court is unable to hold that the plaintiff is the registered proprietor of the land. This is because the letter of allotment lapsed within 30 days and the same is of no legal consequences" [Emphasis added].

61. While we agree with the general tenor of the learned Judge's foregoing pronouncement, we remain uncomfortable with his inference that the allotment letter was of no legal consequence solely because it had lapsed after 30 days. We must reiterate the fact that an allotment letter in and by itself, is incapable of conferring a transferable title to an allottee. Put differently, the holder of an allotment letter is incapable of transferring or passing valid title to a third party on the basis of the allotment letter unless and until he becomes the registered proprietor of the land consequent upon the perfection of the Allotment Letter. It matters not therefore that the allotment letter has not lapsed.

62. Back to the facts of this case, the allotment letter issued to Renton Company Limited was subject to payment of stand premium of Kshs 2,400,000.00, annual rent of Kshs 480,000.00 amongst others. Moreover, the letter was granted on condition that Renton Company Limited would accept it within thirty (30) days from the date of the offer, failure to which it would be considered to have lapsed.

32. The Supreme Court of Kenya [the apex court] clarified the position that even a letter of allotment by and of itself does not confer legal rights and/or interests to property. For good measure, the ratio espoused in the case of Torino [supra] is to the effect that the bearer of the letter of allotment cannot approach a court of law to vindicate his/her rights [sic] over the plot.

33. If a letter of allotment which is one step ahead of a PDP cannot espouse legal rights and/or interests to land, then what about a PDP which is a preliminary step in the process allotment. Moreover, it must be recalled that a PDP does not even bear the name of [sic] the intended beneficiary.

34. To my mind, the Plaintiff's claim before the court does not espouse any scintilla/semblance of a reasonable cause of action. It is not lost on me that a court of law should facilitate and/or foster the hearing of a dispute in the conventional manner. To this end, parties, the Plaintiff herein is obliged to be afforded his or her day in court. Furthermore, a party ought not to be driven away from the seat of justice, unless there exists compelling reasons or basis to do so.

35. The foregoing position accords with the import and tenor and tenor of Article 50 of *the Constitution* 2010. Nevertheless, the question that does arise is whether a court of law is merely intended to afford the parties an opportunity to be heard, even where it is explicit and crystal clear that the matter does not espouse a reasonable cause of action known to law.

36. To my mind, it behoves a party, the Plaintiff not excepted, to only approach a court of law with a view to canvasing a claim [cause of action] that is known to law. In any event, where a cause of action is not known to law, then the court ought not and should not be subjected to a charade.

37. What constitute a cause of action was elaborated upon by the Court of ppeal in the case of Kigwor Company Limited v Samedy Trading Company Limited [2021] KECA 810 (KLR), where the court stated as hereunder;

36. In the Court of Appeal case of Attorney General & another v Andrew Maina Githinji & Another [2016] eKLR Justice Waki held that:-

> " A cause of action is an act on the part of the defendant, which gives the plaintiff his cause of complaint."
>
> That definition was given by Pearson J. in the case of Drummond Jackson v Britain Medical Association [1970]2 WLR 688 at pg 616. In an earlier case, Read v Brown [1889], 22 QBD 128, Lord Esher, M.R. had defined it as:-
>
> "Every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court."
>
> Lord Diplock, for his part in Letang v Cooper [1964] 2 All ER 929 at 934 rendered the following definition:-
>
> "A cause of action is simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person."
>
> When did the cause of action in this case arise? Put another way, when did the respondents become entitled to complain or obtain a remedy ..."

38. In the absence of a cause of action, surely a court of law ought to terminate the proceedings without waiting for production or adduction of further evidence. In any event, the production or adduction of further evidence would not create a cause of action where the position of the law is explicit.

39. Furthermore, it is also important to underscore that a party, the Plaintiff not excepted is at liberty to approach a court of law to protect his/her property rights. Nevertheless, there is no gainsaying that before a party can approach a court of law with a view to ventilating a claim pertaining to a property, the party must demonstrate that same has accrued some legitimate rights to the designated property; and not otherwise.

40. In the case of Nelson Kazungu Chai & 9 others v Pwani University College [2017] KECA 135 (KLR), the Court of Appeal stated as hereunder;

> 22. Before we conclude, we need to say something about Dr. Khaminwa's submission about the appellants' human rights being violated, and also on forceful evictions. A right can only be protected when it exists in reality and not where it remains an illusion or a mere expectation. Right to property is not one of those rights that inhere to every human being upon birth. They are acquired in different ways after one comes into this world. One cannot acquire property rights over another's property other than in a manner prescribed in law. In this case the appellants' claim to the suit property was in our view merely aspirational or rhetorical. This is so both under our very progressive Constitution and also under International Law. Indeed other than call in aid International Law, learned counsel Dr. Khaminwa did not cite any specific instrument that the appellants can leverage on to elevate the appellant's right to practice and enjoy their culture on the respondent's property over the respondent's rights under Article 40

of *the Constitution*. In the absence of any right under the doctrine of legitimate expectation and of any other valid colour of right, the trial court could not have arrived at any other finding. Our conclusion is that the learned Judge arrived at the right decision based on the evidence placed before him, and he cannot be faulted.

41. Other than the fact that the Plaintiff's claim is premised on a PDP, there is also an aspect of the Plaintiff's claim based on the longevity of [sic]occupation. See paragraph[s] 5 and 7 of the Further amended Plaint.

42. What I hear the Plaintiff to be saying is to the effect that same has also acquired and accrued rights based on occupation and possession. Such a claim is geared towards canvassing a cause of action based on [sic] prescription and/or adverse possession.

43. Nevertheless, and without belabouring the point, it is not lost on this court that a claim based on prescription or better still adverse possession [occupation and possession] do not apply to public land. To this end, it is imperative to take cognizance of the provisions of Sections 41 of the *Limitation of Actions Act*, Chapter 22 Laws of Kenya.

44. For ease of appreciation, the provisions of Section 41 [supra] stipulates thus;

> 41. Exclusion of public land This Act does not—
>
> (a) enable a person to acquire any title to, or any easement over—
>
> i. Government land or land otherwise enjoyed by the Government;
>
> ii. mines or minerals as defined in the *Mining Act* (Cap. 306);
>
> iii. mineral oil as defined in the Mineral Oil Act (Repealed);
>
> iv. water vested in the Government by the *Water Act* (Cap. 372);
>
> v. land vested in the county council (other than land vested in it by section 120(8) of the Registered *Land Act* (Repealed); or
>
> vi. land vested in the trustees of the National Parks of Kenya; or
>
> (b) affect the right of Government to any rent, principal, interest or other money due under any lease, licence or agreement under the Government Lands Act (Repealed) or any Act repealed by that Act.

45. Arising from the foregoing, I am afraid that the Plaintiff's claim before the court does not espouse a reasonable cause of action. It is immaterial whether the matter continues until the end of a plenary hearing or otherwise. The bottom line is that the legal issue[s] that underpin the suit beforehand shall continue to linger and will call upon a court of law to deal with it one way or the other.

46. I am live to the fact that striking out a suit is a drastic and draconian measure. I am equally alive to the fact that where a suit espouses some semblance of cause of action, then a court of law ought to allow the claimant to breath some life into the suit. However, there is no gainsaying that life can only be breathed into a suit that is capable of being sustained and not otherwise.

47. In this regard, I am guided by the Court of Appeal decision in the case of Deposit Protection Fund Board in Liquidation of Euro Bank Limited (In Liquidation) v Rosaline Njeri Macharia & another [2016] KECA 804 (KLR), where the court stated as hereunder;

> (29) Clearly, a suit not by or against a person or a body corporate is incompetent. It is a

nullity. That answers the first question. If more authority was required, the philosophy in the sagacious words of Madan, JA as he then was in *D. T. Dobie & Company (Kenya) Limited v Joseph Mbaria Muchina & Another, (Civil Appeal No. 37 of 1978*) that "a court of justice should aim at sustaining a suit rather than terminating it by summary dismissal...", show that only there is a suit, however poorly drafted, is amendment possible to save it. Where, as here, the suit is a nullity, there is no litigation in being in law and the issue of amendment does not arise. Madan, JA as he then was alluded to litigation which is akin to a patient who can be treated and healed. Here, the patient is in the morgue. He is dead.

48. Flowing from the foregoing and taking into account the holding in Dina Management Ltd [supra]; Torino Enterprises; and Nelson Kazungu Chai [supra], I am afraid that the Plaintiff's suit does not espouse any reasonable cause of action capable of being canvassed and ventilated before a court of law.

49. To this end, I am constrained to and do hereby find that the Plaintiff's suit is not only premature and misconceived, but same is equally legally untenable. No amount of amendment can confer upon the Plaintiff legal rights to or interests over a plot that has not yet been allocated in accordance with the law.

50. Next is the issue of whether the court can issue an order to compel National Land Commission [NLC] to issue a letter of allotment to any party, the Plaintiff herein not excepted. This aspect becomes necessary because the Plaintiff herein has sought to amend the Plaint with a view to impleading national land commission for purposes of inter-alia being issued with a letter of allotment.

51. Pertinently, National Land Commission is one of the independent constitutional commissions created and established under *the Constitution* 2010. In particular, national land commission has been established pursuant to the provisions of Article 67[1] of *the Constitution*.

52. By virtue of its stature as one of the independent constitution commissions, National Land Commission is immune to the direction[s] by any party and/or body as pertains to the discharge of its constitutional mandate. Simply put, the commission is not subject to the direction[s] of any person or body in the manner in which same should execute its duties including who to issue a letter of allotment with.

53. The provisions of Article 249[2] of *the Constitution* 2010 are succinct and apt. Same stipulates as hereunder;

> 249.
>
> (1) The objects of the commissions and the independent offices are to—
>
> (a) protect the sovereignty of the people;
>
> (b) secure the observance by all State organs of democratic values and principles; and
>
> (c) promote constitutionalism.
>
> (2) The commissions and the holders of independent offices—
>
> (a) are subject only to this Constitution and the law; and
>
> (b) are independent and not subject to direction or control by any person or authority.

(3) Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions and the budget of each commission and independent office shall be a separate vote.

54. Bearing in mind, the import and tenor of the provisions of Article 249[2] of *the Constitution*, I am afraid that even the intended amendment [if at all] to implead National Land Commission in an endeavour to compel same to issue a letter of allotment would be an exercise in futility.

55. In a nutshell, I come to the conclusion that the Plaintiff's suit is hopelessly and irredeemably bad. Same is beyond redemption.

Final Disposition:

56. Flowing from the analysis espoused in the body of the ruling, there is no gainsaying that the Plaintiff's suit is premature, misconceived and legally untenable. Consequently, same court[s] striking out.

57. In the premises, the final orders that commend themselves to the court are as hereunder;

i. The Plaintiff's suit be and is hereby struck out.

ii. Each Party shall bear own costs of the suit.

58. It is so ordered.

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

OGUTTU MBOYA, FCIArb.

JUDGE.

In the presence of

Mukami/Mustafa Court Assistant

Ms. Nyamu for the Plaintiff.

Mr. Benjamin Kimathi for the 1st and 3rd Defendants.

Mr. George Mwongela for the 2nd Defendant.