



**Del Monte Kenya Limited v Speaker of the National Assembly & 3 others; Kandara Residence Association otherwise known as Kandara Residents’ Association & another (Interested Parties) (Environment & Land Petition E002 of 2023) [2025] KEELC 3013 (KLR) (2 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3013 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MURANGA**

**ENVIRONMENT & LAND PETITION E002 OF 2023**

**MN GICHERU, J**

**APRIL 2, 2025**

**IN THE MATTER OF: ARTICLE 22(1) OF THE  
CONSTITUTION OF THE REPUBLIC OF KENYA**

**AND**

**IN THE MATTER OF: ARTICLES 1,2,3,10,19,20,21,22,23,25,27,35,40,6,47,48,50,60,64**

**BETWEEN**

**DEL MONTE KENYA LIMITED ..... PETITIONER**

**AND**

**SPEAKER OF THE NATIONAL ASSEMBLY ..... 1<sup>ST</sup> RESPONDENT**

**NATIONAL LAND COMMISSION ..... 2<sup>ND</sup> RESPONDENT**

**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN  
DEVELOPMENT ..... 3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**KANDARA RESIDENCE ASSOCIATION OTHERWISE KNOWN AS  
KANDARA RESIDENTS’ ASSOCIATION ..... INTERESTED PARTY**

**CYRUS NJOROGE MUTHONI ..... INTERESTED PARTY**

**RULING**

1. This ruling is on the notice of motion dated 11-11-2024. The motion which is by the 2<sup>nd</sup> interested party is brought under Section 13 of the [Environment and Land Court Act](#) (At No. 19 of 2011), the



inherent jurisdiction of the Court and all the enabling provisions of the law. It seeks two (2) residual orders as follows.

3. That the Court finds that this petition is moot.
  4. That the costs of this application be provided for.
2. The motion is based on five(5) grounds and is supported by an affidavit sworn by Kelvin Kamau Wanjiru dated 11-11-2024 which has one annexure. The gist of the entire motion is as follows. Firstly, the Petitioner filed this petition alleging a violation of its right by the Respondents. Secondly, it has now emerged that the petitioner's rights were not violated and the Report by Parliament occasioned the Petitioner no prejudice because all its leases were renewed as per the annexed copy of the lease. Thirdly, entertaining this petition will be prejudicial to the Respondents and the Court as the matter is moot and does not warrant further court time. Fourthly, the Petitioner lacks a cause of action since it possesses a lease to the suit land and it is not threatened by the report of the 1<sup>st</sup> Respondent which made recommendations which were overtaken by events and the leases were renewed.

For the above and other reasons, the 2<sup>nd</sup> interested party prays that the notice of motion be allowed.

3. The motion is opposed by the Petitioner and one of its Directors, Wayne Cook, has sworn a replying affidavit dated 18-12-2024 in which he replies as follows. Firstly, on 29-4-2024, the 2<sup>nd</sup> interested party was given an opportunity to explain why the petition herein is moot but it failed to do so. Secondly, on 18-6-2024, the Petitioner filed a supplementary affidavit in which it explained why the Amended petition was still alive notwithstanding the renewal of the leases. The 2<sup>nd</sup> interested party did not file any further affidavit to controvert the factual averments made in the petitioner's supplementary affidavit. Thirdly, on 9/7/2024, in the presence of the 2<sup>nd</sup> interested party's counsel, the court gave directions on the filing of written submissions in the main petition with the consent of the 2<sup>nd</sup> interested party's counsel. Fourthly, the counsel for the petitioner and that of the 1<sup>st</sup> interested party complied with the court's directions by filing the agreed written submissions. Fifthly, the 2<sup>nd</sup> interested party has not made a good case for the review of the directions given on 9-7-2024. Sixthly, the allegation that there is a "latent mistake" is hollow and is not backed by evidence. Seventhly, the crux of the matter in the Amended Petition is that the National Assembly, in tabling and adopting the Departmental Committee on Lands' report dated 19-11-2019, the select committee on implementation report dated 10-12-2021 and the Departmental committee on lands' report dated 5-10-2023 (collectively the three Parliamentary reports), acted without jurisdiction and in contravention of *the Constitution* in various ways. Finally, if the motion is allowed, the recommendation in the three(3) reports which are detrimental to the petitioner will remain unquashed. For the above reasons, the petitioner prays for the dismissal of the motion dated 11-11-2014 with costs.
4. I have carefully considered the motion in its entirety including the grounds and the affidavits filed by both sides. I find that it has no merit for the following reasons. Firstly, it is the petitioner that filed this petition alleging violation of its rights. It is the same petitioner saying that the renewal of the leases is not sufficient redress and it wishes the court to make a determination on the jurisdiction of the National Assembly to make the recommendations that it did in its three(3) reports. Can this issue be said to be moot if it remains unresolved by the court? I think not. Secondly, the 2<sup>nd</sup> interested party has not explained what prejudice it will suffer if the court makes a determination on the jurisdiction of the National Assembly to make the recommendations it did in the three Parliamentary reports in contention. Even if the 2<sup>nd</sup> interested party were to suffer prejudice, this would not deter this court from making a determination of an issue that arises in this petition. Finally, on 9/7/2024, the issue of whether the renewal of the leases in favour of the Petitioner exhausted the reliefs sought by the



petitioner arose and it was generally agreed that it did not. For the above stated reasons, I dismiss the motion dated 11-11-2024.

Costs in the cause.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 2<sup>ND</sup> DAY OF APRIL, 2025.**

**M.N. GICHERU**

**JUDGE.**

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Petitioner's Counsel – Mr Thuo

1<sup>st</sup> Respondent's Counsel – Akama

2<sup>nd</sup> Respondent's Counsel –

3<sup>rd</sup> Respondent's Counsel –

4<sup>th</sup> Respondent's Counsel –

1<sup>st</sup> Interested party – Mr Swanja

2<sup>nd</sup> Interested party – Miss Wairim

