



**Nairobi Polo Club v Agricultural Society of Kenya & another (Environment & Land Miscellaneous Case E210 of 2024) [2025] KEELC 4297 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4297 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND MISCELLANEOUS CASE E210 OF 2024**

**TW MURIGI, J**

**MAY 30, 2025**

**BETWEEN**

**NAIROBI POLO CLUB ..... APPLICANT**

**AND**

**AGRICULTURAL SOCIETY OF KENYA ..... 1<sup>ST</sup> RESPONDENT**

**NAIROBI INTERNATIONAL TRADE FAIR ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. Before me for determination is a Notice of Motion dated 20<sup>th</sup> January 2024 in which the Respondents seek the following orders:-
  - a. That the suit herein be struck out on the grounds that it is sub judice.
  - b. That the costs of this application be provided for.
2. The application is premised on grounds appearing on its face together with the supporting affidavit of Caren Jaguga, the Respondents Legal Officer sworn on even date.

**The Applicants' case**

3. The deponent averred that the instant suit relates to matters directly and substantially in issue in ELCLC E413 of 2024 which is pending before this Court. She further averred that ELCLC E413 of 2024 is at an advanced stage as an arbitrator has been appointed by the Chartered Institute of Arbitrators.
4. The deponent argued that maintaining both suits not only contravenes Section 6 of the Civil Procedure Rules, but is also a waste of judicial resources and inimical to the interests of justice. In conclusion, the deponent urged this court to strike out the suit with costs.



5. Though duly served, the Respondent did not file any response to the application. Parties were directed to canvass the application by way of written submissions. As at the time of writing this ruling, none of the parties had filed their submissions as directed.

### **Analysis and Determination**

6. Having considered the application, the only issue that arises for determination is whether the instant suit is sub-judice.
7. Section 6 of the *Civil Procedure Act* provides:

No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding is pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed.

8. In the case of Republic v Paul Kihara Kariuki, Attorney General & 2 others Ex parte Law Society of Kenya [2020] KEHC 10142 (KLR) the Court stated as follows:

In order to check this very problem, there exists the concept of sub judice which in Latin means “under Judgement.” It denotes that a matter is being considered by a court or judge. The concept of sub judice that where an issue is pending in a court of law for adjudication between the same parties, any other court is barred from trying that issue so long as the first suit goes on. In such a situation, order is passed by the subsequent court to stay the proceeding and such order can be made at any stage.... The sub judice rule like other maxims of law has a salutary purpose. The basic purpose and the underlying object of sub judice is to prevent the courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of same cause of action, same subject matter and the same relief. This is to pin down the parties to one litigation so as to avoid the possibility of contradictory verdicts by two courts in respect of the same relief and is aimed to prevent multiplicity of proceedings.

9. The record shows that on 29/10/2024, the court consolidated this matter with ELCLC 413 of 2024. From the foregoing, I find that the issue of sub judice does not arise.
10. In the end, I find that the application dated 20<sup>th</sup> January 2024 is devoid of merit and the same is hereby dismissed with costs.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 30<sup>TH</sup> DAY OF MAY, 2025.**

.....

**HON. T. MURIGI**

**JUDGE**

In the presence of: -

Brian Okoth for the Petitioner

Willy for the Applicants

Court assistant- Ahmed

