



REPUBLIC OF KENYA



**Kitur v Misoi & 3 others (Environment and Land Case
E05 of 2023) [2025] KEELC 4042 (KLR) (28 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4042 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND CASE E05 OF 2023
GMA ONGONDO, J
MAY 28, 2025**

BETWEEN

JOEL KIPCHOGE KITUR PLAINTIFF

AND

DORCAS MISOI 1ST DEFENDANT

LAND REGISTRAR NANDI COUNTY 2ND DEFENDANT

KAPSABET LAND DISPUTES TRIBUNAL 3RD DEFENDANT

ATTORNEY GENERAL 4TH DEFENDANT

RULING

1. The instant ruling relates to my recusal or self-removal from this suit due to possibility of reasonably perceived impartiality in this suit.
2. Black's Law Dictionary 8th Edition (2004) at page 1303 defines 'Recusal' as follows;

The removal of oneself as judge or policy maker in particular matter, (especially) because of conflict of interest.'
3. The threshold for disqualification were laid down in the English case of Metropolitan Properties (Fg-C) Ltd -vs-Lannon & others (1969) 1 QB 577 thus;

...Disqualification was imperative even in the absence of a real likelihood of bias if a reasonable man would reasonably suspect bias.'
4. It is trite law that justice must not only be done but seen to be done and judges have a duty to sit, hear and determine a case; Galaxy Paints Company Limited-vs-Falcon Guards Limited (1999) eKLR.



5. In Regulation 21 (e) of the *Judicial Service (Code of Conduct and Ethics) Regulations 2020* ([Legal Notice No. 102 of 2020](#)) under the *Judicial Service Act*, Revised Edition 2015 (2012), provides for the grounds of recusal of a Judge on the ground of his or her personal interest or a relationship with a person who has a personal interest in the outcome of the case in question.
6. It is noteworthy that fair hearing is a fundamental right that is recognised and protected under Article 50 (1) of the *Constitution* of Kenya 2010 which stipulates:

Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate another independent and impartial tribunal or body.’
7. In this suit originated by way of a plaint dated 3rd August 2023 for, inter alia, declaration orders and a permanent restraint order over land parcel number Nandi/Kamobo/1682, I have noted that my impartiality might reasonably be questioned due to my close personal relationship with a party herein and persons who have a personal interest in the outcome of it.
8. To preserve public confidence in the administration of justice, my disqualification from handling any further proceedings in this suit is inevitable in the obtaining circumstances; see [Jasbir Rai & 3 others vs-Tarlochan Singh Rai and 4 others](#) SCK Petition No. 4 of 2012 (2013) eKLR.
9. A fortiori, I hereby recuse myself from this suit and the same be transferred to Eldoret Environment and Land Court for hearing and determination
10. The case be mentioned before the Deputy Registrar of this court on 18th June 2025 to confirm typing of proceedings and thereafter, the file be transmitted to Eldoret Environment and Land Court.
11. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 28TH DAY OF MAY 2025.

G M A ONGONDO

JUDGE

Present;

1. Mr D Tallam learned counsel for the plaintiff
2. Mr Sang instructed by Mr Choge learned counsel for the 1st defendant
3. Mr Kutei instructed by Ms Tigoi learned counsel for the 2nd, 3rd and 4th defendants
4. Walter, court assistant

