



Mwangazi & 4 others v Mawani & 83 others (Environmental and Land Originating Summons 463 of 2010 & Environment & Land Case 60 of 2011 (Consolidated)) [2025] KEELC 440 (KLR) (11 February 2025) (Ruling)

Neutral citation: [2025] KEELC 440 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MOMBASA

ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 463 OF 2010 & ENVIRONMENT & LAND CASE 60 OF 2011 (CONSOLIDATED)

SM KIBUNJA, J

FEBRUARY 11, 2025

BETWEEN

JUMA CHARO MWANGAZI & 3 OTHERS & 3 OTHERS & 3 OTHERS & 3 OTHERS & 3 OTHERS & 3 OTHERS PLAINTIFF

AND

JAFERALLI LALJI MAWANI 1ST DEFENDANT

MSAMBWENI DEVELOPMENT CO. LTD 2ND DEFENDANT

AS CONSOLIDATED WITH

ENVIRONMENT & LAND CASE 60 OF 2011

BETWEEN

MSAMBWENI DEVELOPMENT CO. LTD PLAINTIFF

AND

SAID JUMA FUNDI & 81 OTHERS & 81 OTHERS & 81 OTHERS & 81 OTHERS & 81 OTHERS & 81 OTHERS DEFENDANT

RULING

1. That from the outset, I wish to point out that the court is unable to appreciate or make any determinations on the application dated the 9th December 2024 as only half of its left part was scanned and uploaded in the CTS. The replying affidavit of Mzee Chula Kadzole, the 2nd plaintiff, sworn on 24th January 2025 is evidently in respect of the said application dated 9th December 2024, and without



the court appreciating the contents of the said notice of motion, then it cannot pronounce itself on the depositions thereon and the consent filed.

2. The further affidavit by Colonel [RTD] Joseph Nyaga Nguru, 2nd defendant's director and secretary, sworn on the 28th January 2025, refers to a letter from the Director Land Adjudication and Settlement dated 22nd November 2025 that was in response to their letter dated 20th January 2025. Considering 22nd November 2025 is months in the future, the court will take it that there was an error in that reference. It is only fair for the deponent to file a further affidavit clarifying the date of the letter under reference before the court renders its determination on the consent filed.
3. I have given due considerations to the oral submissions by Mr. Akanga and Mr. Kethi Ngombo, the learned counsel for the 2nd defendant and plaintiff respectively. I have also perused the record and in view of the findings in 1 and 2 above, the court directs as follows:
 - a. That the 2nd defendant/applicant to upload a properly scanned and legible copy of the notice of motion dated 9th December 2024 in two (2) days.
 - b. That a supplementary/further affidavit be filed clarifying the date of the letter referred to at paragraph 2 of the further affidavit sworn on 28th January 2025 in two (2) days.
 - c. A date for the court's ruling to be fixed.

It is so ordered.

DATED, SIGNED AND VIRTUALLY DELIVERED ON THIS 11TH DAY OF FEBRUARY 2025.

S. M. KIBUNJA, J.

ELC MOMBASA.

In The Presence Of:

Plaintiffs : Mr Kethi Ngombo

Defendant : Mr Akanga

SHITEMI – COURT ASSISTANT.

S. M. KIBUNJA, J.

ELC MOMBASA.

