



REPUBLIC OF KENYA



KENYA LAW
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Noor v Kazungu & 5 others; Mangi & 6 others (Intended Interested Party) (Environment & Land Case 286 of 2016) [2025] KEELC 397 (KLR) (6 February 2025) (Ruling)

Neutral citation: [2025] KEELC 397 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 286 OF 2016
FM NJOROGE, J
FEBRUARY 6, 2025

BETWEEN

MOHAMED OSMAN NOOR PLAINTIFF

AND

CHARO KAZUNGU 1ST DEFENDANT

FATUMA MWANDORO 2ND DEFENDANT

KATUNGA ZAWADI 3RD DEFENDANT

MWALIMU KARISA MANGI 4TH DEFENDANT

SULUBU KARISA MANGI 5TH DEFENDANT

KARISA MANGI KITUNGA 6TH DEFENDANT

AND

CHARO KARISA MANGI INTENDED INTERESTED PARTY

GEORGE KARISA MANGI INTENDED INTERESTED PARTY

JEFA KARISA MANGI INTENDED INTERESTED PARTY

KAZUNGU SULUBU MANGI INTENDED INTERESTED PARTY

STEPHEN KAZUNGU MANGI INTENDED INTERESTED PARTY

ROSE KARISA MANGI INTENDED INTERESTED PARTY

LOICE KADZO INTENDED INTERESTED PARTY



RULING

The Application

1. Through the firm of Muli Ole Kina & Co advocates the intended interested parties filed two Motions, both dated 28th December, 2024. I will not set out the orders therein verbatim herein for reasons that will be obvious in the rest of this ruling.
2. A perusal of the court file has revealed that on certain occasions this court was of the impression that the matter has not been heard. Now that the court's attention has been drawn to the said applications it must give appropriate directions on them.
3. Also, this court having on 7/11/2023 dismissed for default of AOS the motion to have Aboubakar Mwanakitina and Company Advocates come on record for the plaintiff herein in place of Wesley John Austin & Associates, there is no representation for the plaintiff.
4. When the court issued orders that the motion dated 28/12/22 would come up for a ruling on 6/2/2025, it never specified which of the two applications it intended to rule on and counsel present for the applicant never drew the attention of the court to the existence of two motions of the same date.
5. This is a situation that may generate unnecessary and protracted proceedings unless clarity is sought from and agreed amongst all the parties with regard to representation and the application intended to be pursued, so that the defending party may not cry foul afterwards.
6. Besides, the disclosure of the existence of the Petition No 5 Of 2022 between the same parties demands that parties and court consider if the proceedings herein are really necessary. In that petition the court dismissed the injunction application while noting that execution in ELC No 286 of 2016 was effected on 5th December 2021. There is also an intimation by Mr. Gambo that there is an application for stay of execution presumably in the Court of Appeal. Mr Mogaka was of the opinion that this matter is related to OS No 3 of 2024. It is clear certain clarifications are needed before further proceedings are taken herein.
7. Consequently, I order that all parties shall appear before court on 12/2/2025 for issuance of such clarifications and for the issuance of proper directions by this court.

RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 6TH DAY OF FEBRUARY 2025.

MWANGI NJOROGI

JUDGE, ELC MALINDI.

