



REPUBLIC OF KENYA



**Shish Vendors Limited v Mzungu & another (Miscellaneous Application
E003 of 2025) [2025] KEELC 1095 (KLR) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1095 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KWALE
MISCELLANEOUS APPLICATION E003 OF 2025**

**LL NAIKUNI, J
MARCH 5, 2025**

BETWEEN

SHISH VENDORS LIMITED APPLICANT

AND

ALLAN MUYE MWAMUYE MZUNGU 1ST RESPONDENT

OSCAR MWAMUYE 2ND RESPONDENT

RULING

I. Introduction

1. This Honourable Court was called upon to make a determination onto the Notice of Motion application dated 20th January, 2025. It was brought by Shish Vendors Limited, the Applicant herein under the provisions of Section 18 of the *Civil Procedure Act*, Cap. 21 and Orders 51 of the Civil Procedure Rules, 2010.
2. Upon service of the Application to the Respondents, did oppose the application through filing of a Replying Affidavit dated 10th February, 2025 accordingly. It is instructive to note that it is matter that involves two (2) suits – MCELC No. E027 of 2024 and MCELC No. 77 of 2019 which may appear identical. However, critically speaking, from the cause action they are distinct and separate whatsoever.

II. The Applicant's case

3. The Applicant sought for the following orders: -
 - a. That the suit No. MCELC E027 OF 2024 - Shish Vendors Limited – Versus - Allan Mzungu Mwamuye & Another be transferred to the Msambweni Principal Magistrate's Court for hearing and determination.
 - b. That costs of the application be provided for.



4. The application was premised on the grounds, testimonial facts and the averments made out under the 15 Paragraphed annexed affidavit of Suleiman Osman, a director of Shish Vendors Company Limited, the Plaintiff herein. The Deponent averred that:
- a. The Company sued the Defendants for having demolished the Plaintiff's property situated at Kwale town on plot No. LR 5007/47 owned by the Postal Corporation of Kenya.
 - b. The Plaintiff was a tenant of the Postal Corporation of Kenya and under the terms of the lease whereby he was permitted to erect structures on the property for commercial purposes.
 - c. The Respondents purportedly obtained a lease on the same premises and even before the alleged lease was operational, they invaded the Plaintiffs property and demolished the same.
 - d. Prior to the filing of Civil Suit No. MCELC E027 of 2024, the Plaintiff was involved in yet another suit - Civil Suit No. MCELC 77 of 2019 between itself and the Postal Corporation of Kenya.
 - e. The Civil Suit No. MCELC 77 OF 2019 was being handled by Hon. Lillian Lewa (PM).
 - f. On 6th December, 2024 all the two files were listed before Hon. Lillian Lewa. A copy of the cause list was attached marked as "SOJ – 1".
 - g. His advocate on record informed the Court that he was not comfortable for the same court to handle both matters.
 - h. The Court listed "Civil case No. MCELC/E027/2024 Shish Vendors Ltd vs Allan Mwamuye & Another" for mention on 14th March, 2025 while Civil Suit No. MCELC/77/2019 was fixed for hearing on 9th July, 2025 respectively.
 - i. The Court advised the Deponent on whether to take Case No. MCELC/E027 of 2024.
 - j. For the interest of justice, he wished to have the case heard by another magistrate as there was only one magistrate at Kwale Law Courts who handled Land Matters.
 - k. The only other court with the jurisdiction of Kwale County was the Msambweni Law Courts.
 - l. The Deponent made the affidavit in support of his application to have Case No. MCELC/E027/2024 transferred to the Msambweni Magistrate's Court.

III. Replying Affidavit by the Respondent.

5. While opposing the Notice of Motion application dated 20th January, 2025, the Respondent filed a 12 Paragraphed Replying Affidavit sworn by Allan Muye Mwamuye Mzungu and dated 10th February, 2025. He averred as follows that: -
- a. He was the 1st Defendant herein and conversant with the facts of this matter, therefore competent to swear this affidavit.
 - b. He swore this Affidavit on his own and also on behalf of the 2nd Defendant.
 - c. He had seen, read and where need be, the contents of the Notice of Motion Application dated 20th January 2025, together with the Supporting Affidavit of Suleiman Osman Jobez had been explained to him by his Advocate on record herein and in response thereto, he wished to state as hereunder.



- d. The Application herein was an abuse of the Court process and a total waste of precious judicial time and only meant to delay prosecution of Court cases.
- e. There had been no reasons given for the transfer of Kwale MCELC NO.E027 of 2024 between Shish Vendors Limited – Versus - Allan Mzungu Mwamuye & Another to Msambweni Law Courts or at all since both the Kwale and Msambweni Courts had jurisdiction to handle the same. In any event, considering that the suit property was situated in Kwale within the closest physical jurisdiction of the Kwale Court, then the same ought to be heard and determined in Kwale and not otherwise.
- f. He was advised by his Advocate on record that it was true that MCELC E027 of 2024 came up for directions on 6th December 2024, it was not true that the Court opted to deal with MCELC NO.77 of 2019. It was the Plaintiff's Advocate who indicated to Court that his Client was not comfortable with the matter proceeding before Honorable Lewa and with that the Court directed the Advocate to decide whether the matter should be transferred to another Court hence the matter was fixed for mention on 12th March 2025 to confirm the same.
- g. If at all the Plaintiff was not comfortable with MCELC NO.027 of 2024 proceeding before Honorable Lewa then the appropriate application ought to be one for recusal of the said Magistrate with the Application setting out the reasons why the Plaintiff was uncomfortable with the said Magistrate proceeding with the case and not an Application for transfer of the matter herein.
- h. In any event, one wondered why was the Plaintiff comfortable with MCELC NO.77 of 2019 proceeding before Honorable Lewa and not MCELC No. E027 of 2024?
- i. He was further informed by his Advocates that that the suit property and parties in the two suits were the same which was a good reason to have the two matters heard together to avoid situations where the Courts would issue conflicting orders. As a matter of fact, there existed an injunction order against the Plaintiff over the suit property issued on 14th September 2023 in MCELC NO.77 of 2019.
- j. The fact that there was only one magistrate handling land matters in Kwale was not a sufficient reason to have MCELC NO.E027 of 2024 transferred to Msambweni. Infact, since the other matter i.e MCELC NO.77 of 2019 had a hearing date of 9th July 2025 before Honorable Lewa in Kwale Court, then to save on judicial time, the two matters should be heard together on the said date since parties have complied with Order 11 of the Civil Procedure Rules hence both matters are ripe for hearing.
- k. Transferring MCELEC NO. E027 of 2024 to Msambweni would be a waste of judicial time and resources. The two matters are related, the suit property is the same, parties were the same thus the two matters should be heard together and/or consolidated.

IV. The Further Affidavit by the Applicant

6. Upon being granted the leave of Court, the Applicant filed a Further Affidavit sworn by Suleiman Osman Alias Jobez and dated 4th February, 2025. The Deponent averred that: -
 - a. He had read and understood the Replying Affidavit of Allan Mwamuye Mzungu sworn on 10th February,2025.



- b. He reiterated that both the civil suits numbers MCELC NO. 77 of 2019 and MCELC NO. E027 of 2024 came up for mention on 6th December,
- c. 2024 before Hon Lilian Lewa (PM).
- d. In the Civil Suit number 77 of 2019, he had at one time applied to have Hon. Lewa recuse herself when by then M/S Khaminwa & Khaminwa Advocates were acting for him.
- e. On 6th December, 2024 his Advocate informed the Court that he was apprehensive for the two matters to be heard by the same judicial officer. The Court understood his position and opted to hear and determine Case No. MCELC 77 of 2019 and advised him to either take this file to the High Court or have it transferred to Msambweni Law Courts.
- f. The current application was filed as per the Court's advice.
- g. The Civil Case No. MCELC E027 of 2024 used to be handled by Hon. Auka and not Hon. Lewa. It was after the transfer of Hon. Auka when the file was mentioned before Hon. Lewa.
- h. The orders of 14th September, 2023 was issued ex - parte. In any case that order never kicked the Plaintiff, Shish Vendors Limited, out of the premises.
- i. Mr. Mwamuye was now invading the same property which the Plaintiff developed and claiming that it was stopped from developing by the Court. He wondered who gave Mr. Mwamuye the authority to take over the property.
- j. According to him he was leased an empty plot yet he destroyed his property.
- k. The Civil Case No. MCELC 77 of 2019 involved a dispute between a tenant and a landlord Shish Vendors – Versus - Postal Corporation of Kenya. The issues were totally different from those relating to Case No. MCELC E027 of 2024.
- l. The Civil Case No. MCELC E027 of 2024 involved a claim by the Plaintiff against the Defendants who descended upon the Plaintiff's property and unlawfully demolished it. This matter never involved the landlord and if the Defendants' position was that it was the landlord who authorized them to demolish the property, they were free to apply to enjoin the landlord.
- m. He was advised by his Advocates on record that the law under section 18 of the [Civil Procedure Act](#), Cap. 21 allowed this Honourable Court on its own motion to transfer a matter pending before a sub - ordinate Court either to itself or to another subordinate Court.
- n. He could not understand why Mr. Allan Mwamuye who was an Advocate would label an application made under the law to be an abuse of the Court process and this was tantamount to chest thumping and utmost bad faith.
- o. By admitting at paragraph 6 of the Replying Affidavit that the Plaintiff was directed to decide where to take this matter, it was clear that the trial Court was equally not comfortable to hear both matters.
- p. It was not true as alleged at paragraph 8 of the Replying Affidavit that the parties were the same in both cases. The Defendants in Case No. MCELC 77 of 2019 was the Postal Corporation of Kenya. Allan and Oscar Mwamuye are not parties to that case. In the Case No. MCELC E027 of 2024, Postal Corporation of Kenya was not a party to that case.



- q. Although he had already made an application for Hon. Lewa to recuse herself in Case No. MCELC 77 of 2019, the Court dismissed it by stating as follows in its Ruling delivered on 28th February, 2024:-

“I do not find the assertions by the Applicant as a personal affront. However, with due respect to the Applicant, I do not find any plausible reason having been advanced as to why I should recuse myself from this matter.”

- r. In the same Ruling the Court stated at the last page as follows: -

“My attention has been drawn to the Defendant's sentiments on the validity of the lease agreement between the parties herein. From the record, it is clear that the same expired sometime back. I cannot fully comprehend on what basis the parties are before this court there being no contractual relationship between them. However, this is just an observation as the application on this is pending before me. I will therefore leave the observation as that.”

- s. -

The lease Agreement between the Plaintiff and the Postal Corporation provided that at the end of the lease, the tenant was to remove its property. The Plaintiff was yet to remove its property when the Defendants herein descended upon it with a hired bulldozer and a lorry and demolished it. Hon. Lewa had already expressed her opinion on this matter that was why he applied for her recusal and it was for the same reasons why he did apply to have this matter transferred to another Court.

- t. He was not shopping for a forum. When Hon. Auka was hearing Case No. MCELC E027 of 2024 in Kwale he did not object to her handling of the case.
- u. He came to Court to seek justice and the law does not restrict this Honourable Court from transferring the case to Msambweni or even to the High Court for determination. The fact that the property was located at Kwale could not be a reason to have Hon. Lewa (PM) handle both cases. What would have happened if Hon. Lewa recused herself should they have waited for another Land Magistrate to be posted to Kwale Law Courts.
- v. Justice would be served if the two cases were heard and determined by two different judicial officers. The issues in both cases were totally different. In Case No. MCELC 77 of 2019 the Plaintiff was seeking damages from Postal Corporation of Kenya who leased the plot to the Plaintiff but placed obstacles against the Tenant. In Case No. MCELC E027 of 2024, the Plaintiff was seeking damages from the Defendants who demolished its property.

V. Submissions

7. On 5th February, 2025 while all the parties were present in Court, they were directed to have the Notice of Motion application dated 20th January, 2025 be disposed of by way of written submissions and all the parties complied. Unfortunately, by the time of penning down this Ruling the Court had not been in a position to access the submissions by either parties having been filed on Court file or the Court CTS portal. Pursuant to that, the Honourable Court has proceeded to render its ruling on its own merit on 5th March, 2025 accordingly.



VI. Analysis and Determination

8. I have carefully read and considered the pleadings herein and the relevant provisions made by the by the parties. In order to arrive at an informed decision, the Honorable Court has framed the following two (2) issues for its determination. These are: -
- a. Whether the Notice of Motion application dated 20th January, 2025 is merited.
 - b. Who will bear the Costs of Notice of Motion application 20th January, 2025.

Issue No. a). Whether the Notice of Motion application dated 20th January, 2025 is merited.

9. Under this sub – title, the main issue here is on transfer of civil suits from one sub – ordinate court to any other Court of similar jurisdiction. Specifically, the Court is to determine whether the Applicant has made out a case for the transfer of “Civil Suit No. MCELC E027 of 2024 Shish Vendors Limited -Versus - Allan Mzungu Mwamuye & Another” be transferred from the Chief Magistrate Court at Kwale to the Msambweni Principal Magistrate’s Court.
10. The issue of transfer of civil cases from one Court to another is governed by the provision of Section 18 (1) & (2) of the Civil Procedure Rules, 2010. It states as follows: -

“Power of High Court to withdraw and transfer case instituted in subordinate Court

- (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court may at any stage—
 - (a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or
 - (b) withdraw any suit or other proceeding pending in any Court sub - ordinate to it, and thereafter—
 - (i) try or dispose of the same; or
 - (ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or
 - (iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.
 - (2) Where any suit or proceeding has been transferred or withdrawn as aforesaid, the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.
11. Clearly, from the above legal provision, the power to transfer a suit at any stage of proceedings is discretionary upon being formally moved through an application. The burden of providing sufficient reasons of the transfer rests with the Applicant. To buttress on this position, I seek solace from the decion of:- “David Kabungu – Versus - Zikarenga & 4 others Kampala HCCS No. 36 of 1995”,



whereby the Court had the following to say on the circumstances under which the order to transfer suits may be granted:-

“Section 18 (1) of the *Civil Procedure Act* gives the court the general power to transfer all suits and this power may be exercised at any stage of the proceedings even suo moto by the court without application by any party. The burden lies on the Applicant to make out a strong case for the transfer. A mere balance of convenience in favour of the proceedings in another court is not sufficient ground though it is relevant consideration. As a general rule, the court should not interfere unless the expense and difficulties of the trial would be so great as to lead to injustice or the suit has been filed in a particular court for the purposes of working injustice. What the court has to consider is whether the Applicant has made a case to justify it in closing doors of the court on which the suit is brought to the Plaintiff and leaving him to seek his remedy in another jurisdiction It is a well established principle of law that the onus is upon the party applying for a case to be transferred from one court to another for due trial to make out a strong case to the satisfaction of the court that the application ought to be granted. There are also authorities that the principal matters to be taken into consideration are balance of convenience, questions of expenses, interest of justice and possibilities to undue hardship and if the court is left in doubt as to whether under all the circumstances it is proper to order transfer, the duplication must be refused. Want of jurisdiction of the court from which the transfer is sought is no ground for ordering transfer because where the court from which transfer is sought has no jurisdiction to try the case, transfer could be refused.....”

12. The provision of Article 162 (2) (b) of *the Constitution* on the other hand empowers Parliament to “establish Courts with the status of the High Court to hear and determine disputes relating to the environment and the use and occupation of, and title to land.” In this regard and pursuant to Article 162 (3) or *the Constitution*, Parliament enacted the *Environment and Land Court Act, Act No. 19 of 2011*. The provision of Section 13 of the *Environment and Land Court Act* outlines the jurisdiction of the Environment and Land Courts as follows: -
 - (1) The Court shall have original and appellate jurisdiction to hear and determine all disputes in accordance with Article 162(2) (b) of *the Constitution* and with the provisions of this Act or any other law applicable in Kenya relating to environment and land.
 - (2) In exercise of its jurisdiction under Article 162 (2)(b) of *the Constitution*, the Court shall have power to hear and determine disputes-
 - a) Relating to environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
 - b) Relating to compulsory acquisition of land;
 - c) Relating to land administration and management;
 - d) Relating to public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and
 - e) Any other dispute relating to environment and land.
13. Under the provision of Sections 17 and 18 of the *Civil Procedure Act*, Cap. 21 upon an application by a party, or on its own motion, the High Court may transfer the suit to another subordinate Court with territorial jurisdiction, when justice of the case demands such action. It is also instructive that if



no objection as to place of suing is raised in the subordinate Court in the first instance, it cannot be raised on appeal unless there has been a consequent failure of justice – Section 16.

14. In the case of “Hangzhou Agrochemicals Industries Limited – Versus - Panda flowers Limited [2012] eKLR” the Court held: -

“.....In my view, which view I gather from authorities and from the law, the Court should consider such factors as the motive and the character of the proceedings, the nature of the relief or remedy sought, the interests of the litigants and the more convenient administration of justice, the expense which the parties in the case are likely to incur in transporting and marinating witnesses, balance of convenience, questions of expense, interest of justice and possibilities of undue hardship. If the Court is left in doubt as to whether under all the circumstances it is proper to order transfer, the application must be refused. Being a discretionary power, the decision whether or not to exercise it depends largely on the facts and circumstances of a particular case.”

15. Now to apply this legal principle to the instant case. From the pleadings, it is posited that the Company sued the Defendants for having demolished the Plaintiff's property situated at Kwale town on plot No. LR 5007/47. The property was owned by the Postal Corporation of Kenya. The Plaintiff was a tenant of the Postal Corporation of Kenya and under the terms of the lease he was permitted to erect structures on the property for commercial purposes. The Respondents purportedly obtained a lease on the same premises and even before the alleged lease was operational, they invaded the Plaintiff's property and demolished the same. Prior to the filing of Civil Suit No. MCELC E027 of 2024, the Plaintiff was involved in a Civil Suit No. MCELC 77 of 2019 between itself and the Postal Corporation of Kenya.

w. It was stated that the Civil Suit No. MCELC 77 of 2019 was being handled by Hon. Lillian Lewa (PM). On 6th December, 2024 all the two files were listed before Hon. Lillian Lewa. His advocate on record informed the Court that he was not comfortable for the same court to handle both matters. The Court listed case No. MCELC/E027/2024 Shish Vendors Ltd – Versus - Allan Mwamuye & Another for mention on 14th March, 2025 while Civil Suit No. MCELC/77/2019 was fixed for hearing on 9th July, 2025. From the very onset, I have noted that these two civil suits are distinct and bear different cause of action - The Defendants in Case No. MCELC 77 of 2019 was the Postal Corporation of Kenya. Allan and Oscar Mwamuye are not parties to that case. In the Case No. MCELC E027 of 2024, Postal Corporation of Kenya was not a party to that case. In Case No. MCELC 77 of 2019 the Plaintiff was seeking damages from Postal Corporation of Kenya who leased the plot to the Plaintiff but placed obstacles against the Tenant. While in Case No. MCELC E027 of 2024, the Plaintiff was seeking damages from the Defendants who demolished its property. The only other court with the jurisdiction of Kwale County was the Msambweni Law Courts.

16. The provision of Section 1A (1) of the *Civil Procedure Act*, Cap. 21 provides that the overriding objective of the Act and the rules made thereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the civil disputes governed by the Act. Additionally, the provision of Section 1B (1) of the said Act provides as follows: -

“For the purpose of furthering the overriding objective specified in section 1A, the Court shall handle all matters presented before it for the purpose of attaining the following aims-

- (a) the just determination of the proceedings;
- (b) the efficient disposal of the business of the Court;



- (c) the efficient use of the available judicial and administrative resources;
- (d) the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties; and
- (e) the use of suitable technology.”

17. Further, this same legal position is held under the provision of Section 3 and 13 of the Environment & Land Court Act. No. 19 of 2011. Based on this, it is clear that the Advocate has failed to expressly stipulate the reason for not being comfortable on the matter being handled at Kwale Law Courts by Hon. Lewa. From the face value, the Court feels perhaps the Applicant attained the perception that while the Court was delivering its ruling on 28th February, 2024 on the application whether to recuse itself from the Case No. MCELC 77 of 2019 it may have already taken a position on the subject matter which would have an adverse effect to this case. To me this may not be necessarily a strong reason as it lacks any substantiated backing whatsoever. Nonetheless, in the interest of justice, if this Court was to deny the Applicant its prayer to transfer the suit to Msambweni Principal Magistrate Court it would be working contrary to the intended purpose of the overriding objective. The provision of Article 165 (6) further gives the High Court Supervisory jurisdiction in the following terms: -

“(6) The High Court has supervisory jurisdiction over the subordinate Courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior Court.”

18. As stated above, I do find in order to dispense fairness and the justice to the case, the suit – “the Civil Suit No. MCELC E027 OF 2024 Shish Vendors Limited – Versus - Allan Mzungu Mwamuye & Another” ought to be transferred to be entertained before the Principal Magistrate’s Court at Msambweni and not to be dealt with at Kwale Law Courts. For these reasons, I discern that the Notice of Motion application dated 20th January, 2025 is merited and the same is allowed.

Issue No. c). Who will bear the Costs of Notice of Motion application 20th January, 2025.

19. It is now well established that the issue of Costs is at the discretion of the Court. Costs meant the award that is granted to a party at the conclusion of the legal action, and proceedings in any litigation. The Proviso of Section 27 (1) of the Civil Procedure Rules Cap. 21 Laws of Kenya holds that Costs follow the events. By the event, it means outcome or result of any legal action. This principle encourages responsible litigation and motivates parties to pursue valid claims. See the cases of “Harun Mutwiri – Versus - Nairobi City County Government [2018] eKLR and “Kenya Union of Commercial, Food and Allied Workers – Versus - Bidco Africa Limited & Another [2015] eKLR, the court reaffirmed that the successful party is typically entitled to costs, unless there are compelling reasons for the court to decide otherwise.

20. I have well stated in previous precedence and most especially in “Sagalla Lodge Limited – Versus - Samwuel Mazera Mwamunga & another (Suing as the Executors of Eliud Timothy Mwamunga – Deceased) [2022] eKLR”, that:

“ 58. The Black Law Dictionary defines “Cost” to means, “the expenses of litigation, prosecution or other legal transaction especially those allowed in favour of one party against the other”.

The provisions of Section 27 (1) of the *Civil Procedure Act*, Cap. 21 holds that Costs follow events. The issue of Costs is the discretion of Courts. From



this provision of the law, it means the whole circumstances and the results of the case where a party has won the case. The events in this case is that the Notice of Motion application dated 7th December, 2021 by the Plaintiff has succeeded and hence they are entitled to costs of the application and that of the Defendants dated 21st December, 2021.”

21. The provision of Section 27 (1) of the *Civil Procedure Act*, Cap. 21 holds that costs follow the events. In the case of “Hussein Muhumed Sirat – Versus - Attorney General & Another [2017] eKLR, the court stated that costs follow the event as a well-established legal principle, and the successful party is entitled to costs unless there are other exceptional circumstances. In the present case, the Honourable Court elects not to award costs.

Conclusion and Disposition

22. In long analysis, the Honorable Court has carefully considered and weighed the conflicting parties’ interest as regards to balance of convenience. In a nutshell, I proceed to order the following: -
- a. That the Notice of Motion application dated 20th January, 2025 be and is hereby found to have merit and thus allowed.
 - b. That an order made for the Deputy Registrar Kwale to ensure that the file for the Civil Suit No. MCELC E027 OF 2024 Shish Vendors Limited – Versus - Allan Mzungu Mwamuye & Another be transferred to the Msambweni Principal Magistrate’s Court for hearing and determination.
 - c. That unless otherwise stated, the Civil Suit No MCELC/77/2019 shall continue being handled before Kwale Law Courts by the Hon. Lewa (PM).
 - d. That the matter to be mentioned on 25th March, 2025 before the Principal Magistrate Msambweni in the presence of all parties for further directions.
 - e. That there shall be no orders as to costs.

It is so ordered accordingly.

RULING DELIEVERED THROUGH THE MICROSOFT TEAM VIRTUAL, SIGNED AND DATED AT KWALE THIS 5TH DAY OF MARCH 2025.

HON. MR. JUSTICE L. L. NAIKUNI

ENVIRONMENT AND LAND COURT AT

KWALE

Ruling delivered in the presence of:

Mr. Daniel Disi, the Court Assistant.

Mr. Chitembwe Advocate for the Applicant.

M/s. Jadi Advocate for the Respondents.

