



REPUBLIC OF KENYA



**Wafula & 6 others v Sichangi & 23 others (Environment & Land Case  
E001 of 2024) [2025] KEELC 3782 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3782 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUNGOMA  
ENVIRONMENT & LAND CASE E001 OF 2024**

**EC CHERONO, J**

**MAY 8, 2025**

**BETWEEN**

**BENJAMIN BARASA WAFULA ..... 1<sup>ST</sup> PLAINTIFF**  
**SOFFIC MUNIALO KOROFIA ..... 2<sup>ND</sup> PLAINTIFF**  
**JOSEPH WANJALA KOROFIA ..... 3<sup>RD</sup> PLAINTIFF**  
**ROBERT JUMA KOROFIA ..... 4<sup>TH</sup> PLAINTIFF**  
**CONSTANT WANJALA KHUTEKA ..... 5<sup>TH</sup> PLAINTIFF**  
**ISMAEL OMINA OTTIRO ..... 6<sup>TH</sup> PLAINTIFF**  
**ALBERT SHIHUNDU KOROFIA ..... 7<sup>TH</sup> PLAINTIFF**

**AND**

**MR JOSEPH WAFULA SICHANGI ..... 1<sup>ST</sup> RESPONDENT**  
**HON AG LAND REGISTRY INCHARGE ..... 2<sup>ND</sup> RESPONDENT**  
**HON AG LAND DEPUTY REGISTRAR ..... 3<sup>RD</sup> RESPONDENT**  
**PATRICK KISAKA MUNIAFU ..... 4<sup>TH</sup> RESPONDENT**  
**BEATRICE NASIMIYU WANYONYI ..... 5<sup>TH</sup> RESPONDENT**  
**JONES NASIMIYU WANDENI ..... 6<sup>TH</sup> RESPONDENT**  
**JUSTUS WAMUKOTA MUNIAFU ..... 7<sup>TH</sup> RESPONDENT**  
**BRIGID NASIMIYU WAMUKOTA ..... 8<sup>TH</sup> RESPONDENT**  
**ROSE NAMUKURU WAMUKOTA ..... 9<sup>TH</sup> RESPONDENT**  
**KENNEDY MULIRO MUNIAFU ..... 10<sup>TH</sup> RESPONDENT**  
**SYLVIA NANJALA MULIRO ..... 11<sup>TH</sup> RESPONDENT**



WYCLIFFE WANJALA WAMUKOTA .....	12 <sup>TH</sup> RESPONDENT
WYCLIFFE LUKORITO WANDELA .....	13 <sup>TH</sup> RESPONDENT
CORNELIUS BARASA WANYONYI .....	14 <sup>TH</sup> RESPONDENT
SARAH MWENJE MARABU .....	15 <sup>TH</sup> RESPONDENT
MAURICE MUKHWANA MASONI .....	16 <sup>TH</sup> RESPONDENT
JOSEPH JUMA WANDELA .....	17 <sup>TH</sup> RESPONDENT
DORIN NACHANGO JUMA .....	18 <sup>TH</sup> RESPONDENT
DOUGLAS MUKANDA WANYONYI .....	19 <sup>TH</sup> RESPONDENT
MUTELE WANJALA SIKOLIA .....	20 <sup>TH</sup> RESPONDENT
MICHEAL WAFULA MUNIAFU .....	21 <sup>ST</sup> RESPONDENT
ELIZABETH N WAFULA .....	22 <sup>ND</sup> RESPONDENT
JOHN W MULIRO .....	23 <sup>RD</sup> RESPONDENT
MRS SARAH NEKESA RWET .....	24 <sup>TH</sup> RESPONDENT

## RULING

1. This ruling arises from the Notice of Motion Application dated 19/08/2024 filed by the Applicants under Article 22 Clauses 1 & 2 (a-c) of *the Constitution*, 2010 and Section 5 to 8 of the *Civil Procedure Act* seeking the following orders: -
  - a. It pleases this court to grant ex parte orders pursuant to Article (a-c) of *the Constitution* of Kenya that the 1st applicant herein has constitutional right to come to court alleging something wrong is happening.
  - b. It pleases this Hon. Court to issue ex parte orders for consolidating this ex parte originating motion with Civil Appeal No. 19 of 2012 currently ELCA No. 2 of 2017 due to similar matters between parties, about same subject matter and similar causes of actions.
  - c. It pleases this Hon. Court to grant ex parte vesting orders directing the Environment and Land Court registry to extract and issue orders with practicing direction as granted by Hon, Justice Mabeya of the High Court of Kenya at Bungoma on 02/12/2012.
  - d. It pleases this Hon. Court to grant ex parte vesting orders directing the Environment and Land Court Registry to extract and issue orders with practicing direction as granted by Hon, Justice S.K Mukunya of the Environment and Land Court of Kenya at Bungoma on 07/12/2017.
  - e. It pleases this Hon. Court to grant ex parte vesting orders directing the Environment and Land Court Registry to extract and issue orders with practicing direction as granted by Hon, Justice Boaz Olao of the Environment and Land Court of Kenya at Bungoma on 24/05/2018.
  - f. It pleases this Hon. Court to grant orders declaring that, the nugatory orders issued by the Environment and Land Court registry on the 07/12/2017 and 11/06/2018 are purely abeyance orders which have no ownership, no practicing directions and no eviction orders, pending determination of CMCC No. 57 of 2010.



- g. It pleases the hon. Court to grant orders declaring that the orders and practicing directions granted by Hon. Justice Mabeya of the High Court of Kenya at Bungoma on 02/12/2012, Hon. Justice S.K. Mukunya and Hon. Boaz Olao both of the Environment and Land Court of Kenya at Bungoma revoked the judgment consent of 28/02/2011 then directed the subordinate court to continue with the trial of Chief Magistrate Civil Case No. 57 of 2010.
  - h. It pleases this Hon. Court to issue injunction orders, restraining the 1<sup>st</sup> up to the 24<sup>th</sup> respondents their relations and the subsequent parties herein from planting sugarcanes and or doing any actions which may alienate and damage LR No. Ndivisi/Muchi/661 and its resultant numbers LR No. Ndivisi/ Muchi 11743,11744, 11745, 11746, 11747, 11748, 11749, 11750, 11751, 11752, 11753 and 11754 pending determination of the CMCC No. 57 of 2010.
  - i. The applicants pray for costs of this originating motion.
2. The application is premised on the grounds on the face of the application and further supported by a supplementary affidavit also sworn by the Applicants on even date. The Applicants contend that the law firms of M/S Ocharo & Co. Advocates and Kraido advocates deceived and compromised the court in CMCC No. 57 of 2010 where a consent order to appeal was entered into. That the 2<sup>nd</sup> plaintiff in CMCC No. 57 of 2010 disowned the case during his cross-examination. It is further deposed that Hon. Justice Mabeya summarily rejected the High Court Appeal No. 19 of 2012 under Section 79 pf the Civil Procedure Act and directed the subordinate court to hear the suit afresh. That an unknown judge issued direction by admitting the abovementioned appeal and listed it down for hearing.
  3. That parties were not notified of the above mention actions and that the firm of J.W. Sichangi & Co. Advocates misdirected the court leading to the transfer of HCCA NO. 2 OF 2027 to the Environment and Land Court and had it fixed for hearing on 06/11/2017. That J.W. Sichangi & Co. Advocates caused the dismissal of ELCA No. 2 of 2027 on 07/12/2017 before Justice S.K.Mukunya and further Justic Boaz Olao dismissed a subsequent application for review.
  4. The application was opposed by the 4<sup>th</sup> Respondent through his grounds of opposition dated 17/10/2024 in which he stated that the 1<sup>st</sup> Respondent has never been a party to all the proceedings referred to by the Applicants and therefore, no cause of action has accrued against him. That the 1<sup>st</sup> Respondent was simply representing his client, the 4<sup>th</sup> Respondent herein and a party in the proceedings mentioned in the application and can therefore not be sued jointly with his clients in respect to the said litigation.
  5. When the application came up for hearing, Parties agreed to place reliance on their pleadings and documents on record.
  6. I have carefully considered the Application, the affidavit evidence and the Grounds of Opposition; it is my considered view that the one singular issue for determination with regard to this application is whether the same is merited.
  7. First and foremost, I find it imperative to point out that the application which is described as originating motion supported by a supplementary affidavit which is not only unknown under the law but is premised on irrelevant provisions of the law. Even so, the overriding objective of the Civil Procedure Act as enshrined in Section 1A thereof is to facilitate the just expeditious, proportionate and affordable resolution of civil disputes governed by the Act. This court is therefore mandated by Article 159(2)(d) of the Constitution of Kenya to administer justice without undue regard to procedural



technicalities. As such, I shall proceed to determine the merits or otherwise of the application, the irregularities notwithstanding.

8. Upon careful examination of the Applicants' grounds on the face of the said application, I find that the same are verbose, ambiguous, and lacking in clarity. This is evident from the fact that, although this is a separate and independent suit, the applicants repeatedly referred to other proceedings with which this court is unfamiliar. Furthermore, the depositions contained in the supplementary affidavit are not articulated in a coherent or structured manner that would enable this court to follow or understand the reliefs sought. Further, no causal link has been created between the present application and the said proceedings referred to by the Applicants. This court is also at a loss as to what the cause of action against the Respondents is all about as the same has not been explained. Further, it is also unclear why the Applicants opted to file a separate suit to seek redress and seemingly enforce orders made in other proceedings. The annexures to the application did not make it any easier for the court. Equally there is no substantive suit filed together with this application.
9. It is for the above reasons that this court considers the entire application is poorly pleaded, ambiguous, unclear, defective and offends the mandatory provisions of the *Civil Procedure Act* and the Rules made thereunder. Consequently, the said application is without merit and the same is hereby strike out with costs.
10. It is so ordered.

**DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 08<sup>TH</sup> DAY OF MAY, 2025.**

.....  
**HON.E.C CHERONO**  
**ELC JUDGE**

In the presence of;

Petitiner/Applicant-present.

Respondents/Advocate-absent.

Bett C/A.

