



Kaikai & another v Nkolia & 2 others (Environment & Land Petition E004 of 2024) [2025] KEELC 4372 (KLR) (11 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4372 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS
ENVIRONMENT & LAND PETITION E004 OF 2024**

MN MWANYALE, J

JUNE 11, 2025

BETWEEN

JAMES KAYIONI KAIKAI 1ST APPLICANT

**BENJAMIN OLODARU KIRUTARI (SUING AS THE NEXT FRIEND OF AND
ON BEHALF OF NDEGE KIPOS) 2ND APPLICANT**

AND

KORINKO NKOLIA 1ST RESPONDENT

BERNARD KETERE 2ND RESPONDENT

JONATHAN KETERE 3RD RESPONDENT

RULING

1. The Petitioners/Applicants acting in person filed a Notice of Motion dated 21st November 2024 together with a Notice of Preliminary Objection dated 27.01.2025. The motion and the Preliminary Objection are subject of this Ruling.
2. To put the matter into perspective it is important that a brief background of the event leading to the filing of the motion and Preliminary Objection are that: -
 - i. Vide a Ruling dated 15.10.2024 the Petition was found to be Resjudicata and was struck out with costs.
 - ii. The 1st to 3rd Respondents filed a Bill of Costs, which upon service on the Petitioners/Applicants, they filed the present application but neglected to respond to the BILL of costs which was taxed and a certificate of taxation issued on 18th December 2024.



3. The prayers sought in the Application as well as the supporting affidavit to the application suggest that the Application dated 21.11.2024 was filed in response to the Bill of costs, indeed at paragraph 43 of the supporting affidavit the deponent expressly depones so.
4. The Bill of costs having being taxed and a certificate of costs issued, and the application before court being not a reference against the certificate of costs there is nothing left for the court to determine.
5. Thus, upon consideration of the application and the Preliminary Objection filed by the Applicant, the Responses filed by the 1st to 3rd Respondents submissions filed in the matter, the court finds that the application herein in so far as it sought to challenge the Bill of costs, Applicant ought to have filed submissions instead of the application which is overtaken by events and remains an abuse of the court process as it does not seek prayers capable of being issued by the court.
6. Had the Petitioners/Applicants engaged counsel, the fate of Bill of costs as well as this application would have been different. Since counsels trained in law are aware of the right procedure to oppose a Bill of Costs and to challenge a certificate of taxation, by way of a reference.
7. As it is there is nothing for the court to determine and the application is lacking in merits and it must fail.
8. In passing by, the court wishes to caution litigants like the Petitioners/Applicants herein who opt to act in person to do so by themselves but not to seek services of fellow lay people to draft for them court proceedings as was obviously the case herein, since the results is that pleadings and/or submissions which are not coherent will be filed and they would still be fleeced of their money and the emerging trend offends the provisions of the Advocates Act.
9. The Petitioners/Applicants have no one else to blame but themselves, as the Application dated 21.11.2024 together with the Preliminary Objection are both hereby dismissed for being abuse of court process with costs.

DATED AT KILGORIS THIS 11TH DAY OF JUNE, 2025.

HON. M.N MWANYALE

JUDGE

In the presence of

CA – Emmanuel/Sylvia/Sandra

Mr. Mulisa for 1st to 3rd Respondents

Mr. Ochwangi for 3rd to 7th Respondent

Benjamin Kirutari acting in person

James Kaikai acting in person

Ms. Osebe h/b for Mr. Nderitu for 5th 6th Respondents

