



REPUBLIC OF KENYA



KENYA LAW
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**Meshoi v Meshoi & 9 others (Environment and Land Case
E013 of 2021) [2025] KEELC 5245 (KLR) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5245 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E013 OF 2021**

MD MWANGI, J

JULY 10, 2025

BETWEEN

NORMASI ENE MUSA MESHOI PLAINTIFF

AND

MUSA OLE SALAASH MESHOI 1ST DEFENDANT

KELENYI OLE POLONG 2ND DEFENDANT

ANGELA NASIEKU 3RD DEFENDANT

KERIANO OLE KAPOLO SAXINO 4TH DEFENDANT

FRANKLIN WERE JUMA 5TH DEFENDANT

TUBERO LE MUSA MESHOI 6TH DEFENDANT

YIAMPENOI TUKERO MUSA 7TH DEFENDANT

MARY WANJIRU MURANGA 8TH DEFENDANT

RUKIA ASMAN 9TH DEFENDANT

NICHOLAS OCHIENG 10TH DEFENDANT

*(On the question whether the proposed consents between the Plaintiff and the
1st, 4th, 6th, & 7th Defendants should be adopted as a judgment of this court)*

RULING

Background.

1. The Plaintiff initiated this suit vide the plaint dated 9th March 2021. The Plaintiff sued a total of 10 Defendants essentially seeking the revocation of the titles of the various properties emanating from



KJD/Dalalekutuk/1381 held in the names of the Defendants and further seeking an order directing the District Land Registrar Kajiado, to rectify the register(s) to revert the title to its original position and in the name of the Plaintiff. The 1st Defendant is the husband of the Plaintiff.

2. On 6th October 2023, the Plaintiff and the 1st Defendant filed a purported consent dated 25th October 2023. The terms of the consent were;

“The Plaintiff’s case against the 1st Defendant be and is hereby allowed. That the register for Title No. Kjd/Dalalekutuk/1731, 1732, 1733, 1734, 1735, 1873, 1874, 5245 and 5246 be rectified by deleting the names of the 2nd – 10th Defendants and replacing them with the Plaintiff and the 1st Defendant”.

3. There was a 2nd consent filed in court on 6th October 2023 as well between the Plaintiff and the 4th, 6th and 7th Defendants. The terms of the 2nd consent were that;

“The Plaintiff’s case against the 4th, 6th and 7th Defendants be and is hereby allowed. That the register of Title No. Kjd/Dalalekutuk/1734 & Kjd/Dalalekutuk/1873 be rectified by deleting the names of the 4th, 6th and 7th Defendants and retaining the Plaintiff”.

4. The other Defendants who were not involved in the consents communicated their opposition to the adoption of the consents. The court on 26th June 2024 directed parties to file submissions in regard to their respective positions on the adoption of the proposed consents. I have had occasion to read and consider the submissions filed on behalf of the Plaintiff, the 2nd and 5th Defendants. The other parties did not file any submissions.

Issues for determination

5. The sole issue for determination is whether the consents, the subject matter of this ruling should be adopted as judgments of this court.

Analysis and determination.

6. In the case of Onesmus Munia Ndumbi –vs- Joseph Njogu Paulo & another (2017) eKLR, Sila Munyao J, had this to say on consents;

“Generally, parties are free to enter into consents. However, the court is not bound to adopt, as orders of the court all consents of the parties, and may in some instances reject them. The court always bears oversight over a matter that is before it and may reject a consent, if for example, it is aimed at stealing a march on one of the parties, if it is a clear fraud apparent on the face of it, if it is outrightly illegal or if it is against public policy. A consent is therefore always subject to scrutiny by the presiding judicial officer”.

7. Off course, a consent becomes a judgment or order of the court once adopted as such. Once adopted, the consent changes its character and becomes a consent judgment or a consent order.
8. Looking at the proposed consent between the Plaintiff and the 1st Defendant, the same purports to determine the suit in its entirety by directing that all the titles supposedly arising from the original title; some of which are in the names of the Defendants, who are not party to the consent be cancelled and the register rectified appropriately.



9. It is not lost on the court, from the pleadings by the Plaintiff that the 1st Defendant is the same person who allegedly sold the subject parcels to the other Defendants. He is now turning around purporting to unilaterally nullify the other Defendants' titles without any reference to them.
10. The 1st Defendant is literally attempting to pull the carpet under the feet of his co-Defendants. There is no better demonstration of the phrase, 'stealing a march', than what the 1st Defendant has done by purporting to enter into the proposed consent with his wife to the detriment of his co-Defendants without involving them.
11. Adopting the said proposed consent as a judgment of this court would be tantamount to sanctioning an apparent affront to the rules of natural justice.
12. There is yet a second reason why the court cannot adopt the proposed consent. This too applies to the proposed consent between the Plaintiff and the 4th, 6th and 7th Defendants.
13. There is on the record of the court a document titled, 'petition for letters of administration Ad Litem'. The purported Petitioner is one Tip Ole Meshoi. It is a petition for grant of letters of administration ad litem in the estate of the Normasi Ene Musa Meshoi, the Plaintiff herein, who is said to have died on 1st December 2023.
14. For starters, this court does not have the jurisdiction to issue letters of administration of whatever nature, in the estate of a deceased person. That is the exclusive jurisdiction of the High Court or the Magistrates' Court (dependent on pecuniary jurisdiction) under the Law of Succession Act. It is intriguing that such an application was filed and considered before this court.
15. I need to be forthright here and state that any purported grant of letters of administration ad litem issued pursuant to the purported petition dated 7th December 2023 is null and void. As far as this court is concerned, the deceased Plaintiff has not been lawfully substituted.
16. In the case of *Macfoy –vs- United Africa Company Limited (1961) 3 AllER, 1169*, Lord Denning made the following pronouncement which I fully associate with;

“If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it, is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse”.
17. Having said so, and considering that the Plaintiff died on 1st December 2023, she ought to have been substituted within one year by her duly appointed legal representative of her estate. That having not been done, under provisions of Order 24 rule 4(3) of the Civil Procedure Rules, the suit abated by operation of the law after one year from the date of death of the Plaintiff. There is therefore no proper suit before me.
18. Consequently, this file stands closed. Off course the duly appointed legal representative(s) of the estate of the deceased Plaintiff will be at liberty to move the court appropriately to revive the suit and substitute her, if they so wish.
19. I make no orders as to costs.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 10TH DAY OF JULY 2025.



M.D. MWANGI

JUDGE

In the virtual presence of:

Mr. Itaya for the Plaintiff

Ms.Mbesa h/b for Mr. Oonge for the 5th Defendant

Mr. Ole Kamwaro for the 2nd Defendant

Court Asistant: Mpoye

M.D. MWANGI

JUDGE

