



**Sketty (As the legal representative of the Estate of Nassor Mohamed Nahdy - Deceased) v Omar  
(Environment & Land Case 237 of 2010) [2024] KEELC 3987 (KLR) (2 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 3987 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA  
ENVIRONMENT & LAND CASE 237 OF 2010**

**SM KIBUNJA, J**

**MAY 2, 2024**

**BETWEEN**

**MUNIR MOHAMED SKETTY (AS THE LEGAL REPRESENTATIVE OF THE  
ESTATE OF NASSOR MOHAMED NAHDY - DECEASED) ..... PLAINTIFF**

**AND**

**ABDALLA SHARIFF AHMED OMAR ..... DEFENDANT**

**RULING**

1. This matter was referred to this court for further directions by the Deputy Registrar, on the 13<sup>th</sup> March 2024. Mr. Kimani and Khamis, learned counsel for the defendant and plaintiff respectively made their oral submissions on the 23<sup>rd</sup> April 2024, which I have considered.
2. From the submissions tendered by both sides, there is no doubt the counsel are in agreement the role of adopting the report filed and determination of the values is to be done by the Deputy Registrar. I have perused the record and it is apparent that has not been done.
3. The record also confirms that the defendant applied to cross examine the “auditor, Irungu Macharia” on the 6<sup>th</sup> December 2023, and the Deputy Registrar ordered that “The defendant to cross examine the valuer & auditor on their reports on 13<sup>th</sup> December 2023. Defendant to effect summons.” The record further confirms that Macharia and Robert were cross examined on the 13<sup>th</sup> December 2023. The record further shows that on the 13<sup>th</sup> March 2024, counsel for the defendant sought for “leave to examine the government valuer.” That request was not granted, and the matter was referred to this court.
4. I have perused the record and have not seen any report filed by any government valuer upon which the request for cross examination could have been based. The application by the defendant if allowed would require such a report to be sought for and filed first before the maker can be summoned and cross examined. Indeed, the Deputy Registrar observed on 13<sup>th</sup> March 2024, and correctly so that “We



must appreciate that litigation must come to an end. It is highly unlikely that outcomes will satisfy all parties. Since the parties agreed to the valuer who they presented, and was chosen by the court, I am unable to allow the defendants' prayer to call for a government valuer to come up with another report. This is opening a window for more litigation." I do not find any basis for the defendant's quest to cross examine a government valuer on a report that is yet to be made and filed.

5. That flowing from the court's ruling of 11<sup>th</sup> October 2023, what is remaining now is for the Deputy Registrar to ensure compliance with direction 6 (c) thereof, if the parties have failed to come up with a consent. The matter is hereby referred back to the Deputy Registrar for further necessary orders. In accordance with the directions given earlier so as to bring this matter to a closure, without undue delay.

DATED AND VIRTUALLY DELIVERED THIS 2<sup>ND</sup> DAY OF MAY 2024.

S. M. Kibunja, J.

ELC MOMBASA

IN THE PRESENCE OF:

PLAINTIFF : Mr. Khamis for Abubakar

DEFENDANT : No appearance

WILSON – COURT ASSISTANT.

S. M. Kibunja, J.

ELC MOMBASA.

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