



**Mwangangi v Muunda & 2 others; Ngurish Investment Limited & another (Interested Parties)
(Environment & Land Case 329 of 2017) [2023] KEELC 18850 (KLR) (12 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18850 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT & LAND CASE 329 OF 2017**

**A NYUKURI, J
JULY 12, 2023**

BETWEEN

ESTHER MBULA MWANGANGI PLAINTIFF

AND

NELSON MUTISYA MUUNDA 1ST DEFENDANT

DANIEL ONGERI ONGERA 2ND DEFENDANT

RUTH MORAA ONGERA 3RD DEFENDANT

AND

NGURISH INVESTMENT LIMITED INTERESTED PARTY

ICIPE STAFF HOUSING CO-OPERATIVE INTERESTED PARTY

RULING

1. On May 17, 2023 when this matter came up for mention, Mr Mungai, counsel for the Plaintiff and first Interested Party sought that Mr Ondabu Advocate appearing for the 1st, 2nd and 3rd Defendants should not be allowed to act for the Defendants in this matter on the basis that on June 12, 2020, this court barred him from acting for the Defendants in this matter. Mr Ondabu stated that he had been barred to act in this matter and not in the other suits that have been consolidated with this suit.
2. I have considered the ruling of this court made on June 12, 2020. That ruling was delivered pursuant to a Notice of Motion dated February 21, 2018 filed by the Plaintiff and the 1st Interested Party seeking for an order to bar Mr Jason Ondabu acting for the Defendant and for leave to call the said advocate as a witness in this matter. Subsequently, this court held that Mr Jason Ondabu Advocate cannot represent the Defendants in this case without falling into the danger of being conflicted. The court therefore barred Mr Jason Ondabu Advocate from appearing for the Defendants in this suit.



3. This suit is related to Machakos High Court P & A No 28 of 2009 and Machakos ELC No 359 of 2011. On April 10, 2018, this court made an order consolidating Machakos ELC No 359 of 2011, Machakos Succession Cause No 28 of 2009 and Machakos ELC 329 of 2017 and an order that the suits be heard together. As the order to have the three suits herein consolidated and heard together was made on April 10, 2018, and the order barring Mr Jason Ondabu to appear for the Defendants herein was made on June 12, 2020, the decision having been made after the consolidated and the suit having been ordered to be heard together, it follows that Mr Jason Ondabu was effectively barred from appearing in all the three suits consolidated herein and his argument that he was only barred to appear in ELC No 329 of 2017 and not the other two suits stated hereinabove is rejected. In any event, the three suits shall be heard together and therefore he cannot possibly appear in one suit and not the other when the suits have been consolidated and ordered to be heard together.
4. In the premises, I find and hold that Mr Jason Ondabu is barred from appearing for the Defendants in the three consolidated suits herein namely Machakos ELC No 329 of 2017, ELC No 359 of 2011 and Succession No 28 of 2009.
5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MACHAKOS VIRTUALLY THIS 12TH DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM

A. NYUKURI

JUDGE

In the Presence of;

Mr. Mungai for Plaintiff and 1st Interested Party

Mr. Mocha for 2nd Interested Party

No appearance for Defendants

Abdisalam – Court Assistant

