



**Republic v Multi-Sectoral Committee on Unsafe Structures & 4 others;
Alpha Grain Millers Limited (Exparte) (Environment and Land Miscellaneous
Application 173 of 2018) [2023] KEELC 18800 (KLR) (6 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18800 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION 173 OF 2018
LN MBUGUA, J
JULY 6, 2023**

BETWEEN

REPUBLIC APPLICANT

AND

**MULTI-SECTORAL COMMITTEE ON UNSAFE STRUCTURES 1ST
RESPONDENT**

NATIONAL LAND COMMISSION 2ND RESPONDENT

MINISTRY OF LANDS AND PHYSICAL PLANNING 3RD RESPONDENT

NAIROBI CITY COUNTY 4TH RESPONDENT

ATTORNEY GENERAL 5TH RESPONDENT

AND

ALPHA GRAIN MILLERS LIMITED EXPARTE

RULING

1. This Judicial Review suit was filed by way of a substantive Notice of Motion Application dated October 22, 2018, alongside a series of 3 other suits namely Misc 174, 175 and 176, all of year 2018. The latter two files are finalized vide judgments delivered on July 25, 2022 by Judge Okongo. The other 2 namely Misc 173 and 174 both of 2018 are pending before this court.
2. On May 24, 2023, an oral application was made to this court by counsel for the Exparte Applicants to the effect that the pleadings in this case are identical to the pleadings in files Misc No 175 of 2018 and No 176 of 2018 and prays that the judgement in the two latter files should apply in the current files Misc 173 of 2018 and 174 of 2018. This ruling relates to the aforementioned application.



3. It was argued for the applicant that hearing was conducted in file No 176 of 2018 and judgement therein applied in 175 of 2018.
4. This proposition was opposed by counsel for the 1st, 3rd and 5th respondents (The AG) who contended that the titles in question in the decided matters were in respect of distinct properties, and that the Judicial Review Suits 176 and 175 of 2018 which were before judge Okong'o were not test suits. It was further argued that the findings of facts in the above mentioned files are not binding before this court. Counsel also stated that they did not participate in the other two suits hence this court should proceed to hear the pending matters.
5. Counsel for the 2nd respondent (NLC) was in support of the arguments advanced by the 1st, 3rd and 5th respondents.
6. Counsel for the 4th respondent (The County government of Nairobi) was neutral arguing that no orders were made against their client.
7. In rejoinder, Counsel for the Exparte Applicant stated that the principle of law in the 2 suits is the same; that is whether the demolitions were justified, thus even if the titles are different, there is a common thread in all the suits, adding that there was no appeal in the 2 decisions.
8. I have gone through the aforementioned 4 files, and it is apparent that what triggered the filing of the suits is a notice issued by the 1st respondent dated September 25, 2018 stating that all properties that had encroached upon Kenya Airport Authority land at JKIA on LR No 21919, Wilson Airport land LR No 209/13080 and Embakasi village airport staff quarters would be demolished or removed from the flight path.
9. I discern that the pleadings are more or less the same in the 4 files. However, the two decided matters 175 and 176 of 2018 were not made test suits during their lifespan straddling close to 4 years in the court corridors. It is pertinent to note that this court is independent, thus the decisions of parallel courts are not binding. In the circumstances, the oral application made by counsel for the Exparte Applicant for this court to render judgment by adopting the judgment in cases no 175 and 176 of 2018 is found to have no merits. The same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 6TH DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Ngatia for Exparte Applicant

Allan Kamau for 1st, 3rd & 5th Respondents

Magando for 4th Respondent

Ntuster Bitok for 2nd Respondent

Court Assistant: Betsy

