



Waqooy Merchants Limited v County Executive Committee Member for Lands, Physical Planning and Urban Development County Government of Nairobi & 2 others; Directorate of Lands, Housing & Urban Renewal, Urban Planning & Development (Now State Department for Lands & Physical Planning) & 2 others (Interested Parties) (Judicial Review Application E121 of 2025) [2025] KEHC 5992 (KLR) (Judicial Review) (9 May 2025) (Ruling)

Neutral citation: [2025] KEHC 5992 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW APPLICATION E121 OF 2025**

**RE ABURILI, J
MAY 9, 2025**

BETWEEN

WAQOQY MERCHANTS LIMITED APPLICANT

AND

THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR LANDS, PHYSICAL PLANNING AND URBAN DEVELOPMENT COUNTY GOVERNMENT OF NAIROBI 1ST RESPONDENT

THE COUNTY CHIEF OFFICER FOR URBAN DEVELOPMENT AND PLANNING COUNTY GOVERNMENT OF NAIROBI 2ND RESPONDENT

THE COUNTY GOVERNMENT OF NAIROBI 3RD RESPONDENT

AND

DIRECTORATE OF LANDS, HOUSING & URBAN RENEWAL, URBAN PLANNING & DEVELOPMENT (NOW STATE DEPARTMENT FOR LANDS & PHYSICAL PLANNING) INTERESTED PARTY

THE COUNTY PHYSICAL AND LAND USE PLANNING LIASION COMMITTEE INTERESTED PARTY

OFFICE OF THE COUNTY ATTORNEY INTERESTED PARTY



RULING

1. The Chamber Summons dated 7/5/2025 seeks leave of this Court to apply for Judicial Review orders which include declaration, mandamus, permanent injunction; and compensation. The exparte applicant is Waqooy Mechants Limited.
2. The statutory duty which the exparte applicant claims ought to have been performed by the 1st Respondent the County Executive Committee member of Lands, Physical Planning and Urban Development County Government of Nairobi is that of approval of the structural and architectural drawings of a Commercial Development on property Ref. PLUPA-BPM-00973-N and following that failure, the applicant claims that the failure is contrary to Section 61(2) of the upon which the applicant filed a complaint against the 2nd Interested Party County Physical and Land use Planning Liaison Committee in accordance with Section 78(a) of the Act, whose decision was rendered on 7/3/2024.
3. That the 1st Respondent was then directed by the 1st Interested Party to render its decision in 30 days which it did and the applicant proceeded and begun construction on the said property on 28/1/2025 after 60 days as per Section 58(6) of the *Physical and Land use Planning Act*, 2019 Act only for officials from the office of the 3rd Respondent to visit the premises of construction and arbitrarily declared the construction to be unauthorized and destroyed and confiscated construction materials from the site. That is the basis of these Judicial Review proceedings.
4. The question is does this court have jurisdiction to hear and determine these proceedings? The outright answer is No! This is because, the matter from a glance, relates to a dispute governed by the *Physical and Land use Planning Act*, 2019. Such disputes can only be resolved by the Environment and Land Court as stipulated in Article 162(2) (b) of *the constitution* as read with Article 165(5) (b) of *the Constitution*.
5. The latter Article clearly bars the High Court from hearing and determining disputes reserved for the specialized courts established under Article 162(2) of *the Constitution*.
6. Additionally, the dispute squarely falls under the jurisdiction of the Environment and Land Court. See Section 13 of the Act on jurisdiction of the Environment and Land Court.
7. For those reasons, and for want of jurisdiction, I hereby decline to entertain the application for leave and strike it out with no orders as to costs.
8. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 9TH DAY OF MAY, 2025

R.E. ABURILI

JUDGE

