



**Mwandaa & 2 others v Mwandoe & another (Civil Appeal E053 of 2025)
[2025] KEHC 12764 (KLR) (17 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12764 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CIVIL APPEAL E053 OF 2025
AN ONGERI, J
SEPTEMBER 17, 2025**

BETWEEN

**BENJAMIN MWANDAA 1ST APPELLANT
HAMISI KALELA 2ND APPELLANT
PETER MAGHANGA 3RD APPELLANT**

AND

**ELIJAH MWANDOE 1ST RESPONDENT
SULEIMAN MWAMBOGHA 2ND RESPONDENT**

RULING

1. The Judgment Debtors (JDs) were ordered to pay costs in Voi SPM’s Case No. 161 of 2018.
2. The trial Magistrate found that the five dependant’s Benjamin Mwandaa, Anderson Mwaumba (now deceased), Hamisi Kalela, Peter Maghanga and Abdalla Kiko (also now deceased) were to be restrained by themselves, their agents, servants, employees or anyone claiming under them from making any new resolutions in Ndara B Group Ranch pending conversion as contemplated under the [Community Land Act](#) 2016. The other orders were declined.
3. The court also said in paragraph (e) of the orders as follows,

“(e) The Plaintiffs have partially succeeded in the case and so I award them costs of this suit.”
4. The Plaintiffs Engineer Elijah Mwandoe and Suleiman Mwambogha who are now the Decree Holders (DHs) thereafter had the Bill of Costs taxed before the Taxing Master and they were ordered to pay costs of Kshs. 691,200/= out of which Kshs. 500,000/= was item one.



5. The JDs thereafter filed an appeal to this court against the said taxation and they said the Kshs. 500,000/= ordered in item one was excessive since the suit was not seeking any decretal sum.
6. This court gave a Judgment on 7th February 2025 dismissing the appeal since the JDs ought to have filed a reference and not filed an appeal.
7. The JDs had also asked the court for orders that they should liquidate the costs by installments of Kshs. 100,000/= per month.
8. This court in its Judgment of 7th February 2025 allowed them to liquidate the decretal sum by five equal installments.
9. The JDs did not pay the costs. They were taken before the trial court by way of Notice to Show Cause and they were sentenced to one month imprisonment in civil jail on condition that the DHs meets the subsistence costs.
10. The case has come back again before this court and upon interrogating the JDs and the DHs, it is apparent that they all belong to Ndara B Group Ranch which is now Ndara B Community Land.
11. This court is guided by Article 159 of the [Constitution](#) which mandates the court in Article 159 2(c) to embrace reconciliation and other alternative methods to help parties resolve their disputes amicably.
12. The appeal that was before this court that was dismissed was an appeal from a taxation.
13. It was not an appeal from the judgment delivered in Voi SPM Case No. 161 of 2018.
14. The issue before me is the payment of the costs.
15. Since the JDs have said they were sued in their capacity as officials of Ndara B Group Ranch which has now transitioned to Ndara B Community Land under the [Community Land Act](#) 2016, it is in the interest of justice for this court to find an amicable way of resolving this issue.
16. The JDs who are serving 30 days civil jail are therefore released on condition that they sign a personal bond of Kshs. 100,000/= each.
17. In my opinion the matter can be resolved by referring the same to a neutral party.
18. We now have Court Annexed Mediators who will help the parties to reach an amicable settlement.
19. The Chairman of Ndara B Community Land Mr. Raphael Mwahanga Ngao has said the community is willing to settle the costs since the JDs were officials of the community land when they were sued.
20. I accordingly direct that the JDs be released forthwith on a personal bond of Kshs. 100,000/= each (a free bond).
21. I will give the JDs 60 days to settle the costs either through the community committee or in person.
22. In the meantime Court Annexed Mediation is now a court mandated process under Article 159 2(c) of the [Constitution](#).
23. This matter is referred to the Court Annexed Mediation Sub-Registry for purposes of screening and for placing before the Court Annexed Mediator.
24. Mention on 18th November 2025 for further directions.
25. In the unlikely event that this case will not be resolved, this court will give directions on 18th November 2025.



**DATED, SIGNED AND DELIVERED THIS 17TH DAY OF SEPTEMBER 2025 IN OPEN COURT
AT VOI HIGH COURT.**

ASENATH ONGERI

JUDGE

In the presence of:-

Court Assistant: Millicent/Mabishi

Miss Gathua for the Decree Holder

Mr. Onindo for the Judgment Debtor

