



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC NO. 120 OF 2011

(Formerly NAIROBI HCCC 1012 OF 1998)

JOYCE NYOKABI (Administrator of David Kamau Mwangi).....1ST PLAINTIFF

TIMOTHY CHEGE.....2ND PLAINTIFF

-VERSUS-

COMMISSIONER OF LANDS.....1ST DEFENDANT

LAND REGISTRAR – KILIFI.....2ND DEFENDANT

ATTORNEY GENERAL.....3RD DEFENDANT

WILSON GACHANJA.....4TH DEFENDANT

ALFRED CHRWON.....5TH DEFENDANT

JAMES RAYMOND NJENGA.....6TH DEFENDANT

RULING

1. By the Notice of Motion application dated 8th April, 2021, the 1st and 2nd Defendants herein sought an order to the effect that the Environment and Land Court Judge at Malindi Hon. James Olola does recuse himself from hearing this matter. The Plaintiffs had opposed the application and this court thereafter reserved the matter for a Ruling on 28th October, 2021.

2. As it turned out, the Judge whose recusal was sought herein was transferred to Nyeri Environment and Land Court effective 16th September, 2021 and the Honourable Lady Justice (Dr) Milicent Odeny now sits at the Malindi Environment and Land Court.

3. Having moved away from the Malindi ELC, I think the Motion dated 8th April, 2021 has now been overtaken by events and there is no need to make a determination thereon.

4. Accordingly I hereby direct that this file be transmitted back to the Malindi ELC court for hearing and determination of the application dated 15th December, 2020 which was in the process of being heard when the application for recusal was made.

I make no order as to costs.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NYERI THIS 2ND DAY OF DECEMBER, 2021 VIA MICROSOFT TEAMS.

In the presence of:

Mr. Gachuna for the Plaintiffs

Mr. Nguyo for 1st to 3rd Defendants

Court assistant - Wario

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J. O. OLOLA

JUDGE