

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

ADMIRALTY CLAIM NO. 3 OF 2017

ALI DAUD MOHAMED & SAID SHABAN DEROW.....CLAIMANT

VERSUS

THE MEDITERRANEON SHIPPING COMPANY & THE OWNERS OF THE

MOTOR VESSEL "MSC PYLOS & MSC TG ATHENA"DEFENDANT

R U L I N G

1. I have re-looked at this file and asked myself the fundamental question regarding jurisdiction. The admiralty jurisdiction of this court is exercisable *‘in all matters arising in the high seas or in territorial waters, as defined under the Interpretation and General Provision Act, or upon any lake or other navigable inland water in Kenya’*.
2. I understand an admiralty court to exercise the authority vested in the crown and it is beyond doubt that even those powers do not go beyond our territorial boundaries.
3. Even if I was to be blind to that reality and gave orders, this court would be totally helpless to have such orders enforced. The court shall have acted in futility. That to this court is neither desirable nor necessary.
4. I find that this claim in rem discloses that the ship and its cargo therein laden being outside the jurisdiction of this court, the court lacks jurisdiction to exercise and I have no other choice but to have the suit struck out and the orders given on 28/04/2017 to have been given in error and are thereby recalled and set aside.

Dated and delivered at **Mombasa** this **02nd** day of **May 2017**.

HON. P. J. O. OTIENO

JUDGE