



**Kore Forests Limited v Attorney General & 3 others; Patel (Interested Party);
Panstaff Development Company Limited (Applicant) (Environment and
Land Case 245 of 2021) [2025] KEELC 5839 (KLR) (19 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 5839 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KWALE
ENVIRONMENT AND LAND CASE 245 OF 2021
LL NAIKUNI, J
JUNE 19, 2025**

BETWEEN

KORE FORESTS LIMITED PLAINTIFF

AND

THE ATTORNEY GENERAL 1ST DEFENDANT

THE LAND REGISTRAR – KWALE 2ND DEFENDANT

E N MARWANGA 3RD DEFENDANT

MWANAJUMA ALI BUWA 4TH DEFENDANT

AND

URMILABEN G PATEL INTERESTED PARTY

AND

PANSTAFF DEVELOPMENT COMPANY LIMITED APPLICANT

RULING

I. Introduction

1. This Honourable Court was called upon to make a determination unto the Notice of Motion application dated 16th September, 2024 by Panstaff Development Company Limited, the Applicant herein. The Application was brought under the provision Sections 1A, 1B, 3, 3A, 81 (2) (h) of the [Civil Procedure Act](#), Order 1 Rule 10 (2), Order 51 Rule 1 of the Civil Procedure Rules 2010.



2. Upon service of the Application to the Respondents, the Plaintiff responded to the Application through a Notice of Preliminary Objection dated 8th October, 2024 and a replying affidavit sworn by Victor Benson Olwande Oballa an advocate in the suit on 8th October, 2024.

II. The Applicant's case

3. The Applicant sought for the following orders: -
 - a. That the Applicant be joined as interested parties in this suit.
 - b. That this suit be consolidated with MSA ELC Case Number 309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General for hearing and determination.
 - c. That Costs be in the cause.
4. The application by the Applicant was premised on the grounds, testimonial facts and the averments made out under the 14 Paragraphed supporting affidavit of PATRICK MBOGO, a Director of the Applicant herein. The Deponent averred that:
 - a. The suit pertains ownership of property Title Numbers Kwale/Msambweni 'A' 1706, Kwale/Msambweni 'A' 1707, and Kwale/Msambweni 'A'/1708. Annexed in the affidavit and marked as "PM – I" was a copy of the Plaintiff dated 24th October 2014.
 - b. In this suit, the Plaintiff sought among others, an order to be restored as the owner of Title Number Kwale/Msambweni 'A'/1708 (the property).
 - c. The Applicant had identifiable stake and legal interest in these proceedings. The Applicant maintains that she was the lawful owner of the property to which she still holds the original title deed issued on 8th September 1987. Annexed in the Affidavit and marked as "PM – 2" was a copy of the Applicant's Title Deed.
 - d. The Applicant contended that as an owner of the property, this Court had a constitutional duty under Article 40 to protect her right from arbitrary and unlawful deprivation of the property.
 - e. Consistently, the Applicant contended that any title that was issued to the Plaintiff or to any other party in this suit was fraudulent and dubious.
 - f. The Honorable Court, in determination of this suit, would trace the root of the title to the property and decipher which instrument of title would be given jural recognition, an exercise that inalienably warrants the Applicant's participation.
 - g. The Applicant and the Plaintiff in this suit were engaged in the civil case "Mombasa ELC No.309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General" which suit is equally pending hearing and determination.
 - h. In the said Civil case of "Mombasa ELC No. 309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General", the Applicant was also seeking to be restored as the owner of the property. Annexed in the affidavit and marked as "PM – 3" was a copy of the Plaintiff dated 19th May 2017.
 - i. Substantially, both suits raised similar questions of fact and law, among them:



- a. Were there any genuine proceedings in “Nairobi Civil Suit No.916 of 2007 (OS): Mohamed Said Dosa & others – Versus - Peter Gitau Kabiru & others” that resulted in the Land Registrar cancelling the Applicant’s title to the property?
- b. Could the Plaintiff in this suit obtain good title to the property as an alleged purchaser for value yet the court proceedings giving title to the alleged vendor were impeached as fictitious from all quarters? Annexed and marked in the affidavit:
 - i. “PM – 4”, Letter dated 8th November 2010 from the Deputy Registrar, High Court Nairobi expressing grave doubt over the existence of “Nairobi Civil Suit No. 916 of 2007 (OS): Mohamed Said Dosa & others – Versus - Peter Gitau Kabiru & others.
 - ii. “PM – 5”, Letter dated 23rd April 2012 from the Chief Land Registrar;
 - iii. “PM – 6”, Letter dated 15th May 2012 from the Deputy Registrar, Environment and Land Law Division, Nairobi; and
 - iv. “PM – 7”, Letter dated 5th November 2012 by the Chief Land Registrar
- c. Can a good title pass in the wake of fraud, corrupt schemes and tampering of the register where the Plaintiff in this case was complicit?
- j. It was prudent for these two cases to be consolidated to avoid multiplicity of litigation over the same property between, significantly the same parties.
- k. It was also desirable for the suits to be consolidated to avoid the prejudice and crises where the Court gives jural recognition to competing title deeds that exist contemporaneously.
- l. It was in the interest of justice that the orders sought herein are granted for uniformity, effectual and complete adjudication of all questions involved in the presence of all the necessary parties.

III. The Notice of Preliminary objection by the Plaintiff

5. The Plaintiff raised a Preliminary Objection dated 8th October, 2024 at the hearing of the Interested Party’s Notice of Motion dated 16th September 2024 and the entire suit on the following grounds: -
 - a. The Application is bad in law as there is no proceedings and or suit pending over Parcel of Land or Kwale/Msambweni/ “A”/1708 to warrant consolidation of the Suit herein with the civil case of:- “Mombasa ELC Case No. 309 of 2017 Panstaff Development Company Limited – Versus - Kore Forest Limited & The Attorney General”.
 - b. The Court herein was “functus officio” in so far as Parcel of Land Kwale/Msambweni/ “A”/1708 is concerned.
 - c. The Application is scandalous, frivolous and or vexatious lacking of merit and an abuse of the Court process.
 - d. In the circumstances the Application dated 16th September, 2024 be dismissed with costs.

IV. The Replying Affidavit

6. Victor Benson Olwande Oballa, an advocate of the High Court of Kenya who had conduct of this suit responded to the Application by the intended interested party through a 9 Paragraphed Replying Affidavit sworn on 8th October, 2024 where he averred as follows: -



- a. It was quite clear in from the Court records that the Plaintiff did lodge the Suit herein as against the Defendant over a dispute with regard to Parcels of Land Known as Kwale/Msambweni 'A' 1706, Kwale/Msambweni 'A' 1707, and Kwale/Msambweni 'A'/1708.
- b. It was clear from the Court records that:-
 - i. A consent was recorded in the matter and a Decree issued on the 10th June 2022 settling the matter to wit one of the terms was Kore Forests Limited be and was hereby declared as the registered and bona fide proprietor of the property known as and registered as Kwale/Msambweni/ 'A'/1708.
 - ii. The Land Registrar Kwale be and is hereby ordered to immediately rectify the original Green Card relating to the Property known as Kwale/Msambweni/"A"/1708 to the effect that Kore Forests Limited was shown as the lawfully registered absolute proprietor of the Property known as Kwale/Msambweni/ "A"/1708. At pages 1 to 2 of the bundle of documents collectively marked as exhibit "VBOO - 1" were true copies of consent letter dated 11th May 2023 and Decree issued on the 10th June 2022.
- c. Legally upon the recording of the consent and issuance of the Decree the Honourable Court became functus officio in so far as the Parcel of Land known as Kwale/Msambweni/"A"/1708 was concerned.
- d. In so far as Parcel of Land known as Kwale/Msambweni/"A"/1708 was concerned, the consent having been recorded and adopted by the Honourable Court and after a Decree issued and effected, there currently does not exist and proceedings and a Suit to warrant and or enable consolidation of the matter herein with the Civil case numbers "Mombasa ELC Case Number 309 of 2017 Panstaff Development Company Limited – Versus - Kore Forest Limited & Attorney General".
- e. The Application was thus bad in law lacking merit, scandalous, frivolous, vexatious and should be dismissed with costs to the Plaintiff.
- f. The Affidavit was in opposition to the Application dated 16th September, 2024 and prayed that the same be dismissed with costs.

V. Submissions

7. While all the parties were present in Court, they were directed to have the Notice of Motion application dated 16th September, 2024 be disposed of by way of written submissions and all the parties complied. Unfortunately, by the time the Court was penning down the Ruling it had not been in a position to access the written submissions of any of the parties from neither the Judiciary CTS portal nor the ELC Registry. Hence, it proceeded rendering the Ruling on its own merit whatsoever.

VI. Analysis and Determination

8. I have carefully read and considered the pleadings herein and the relevant provisions made by the by the parties. In order to arrive at an informed, fair and Equitable decision, the Honorable Court has framed the following four (4) issues for its determination. These were:-
 - a. Whether the Preliminary Objection dated 8th October, 2024 by the Plaintiff met the thresholds of an objection as stipulated under the law and precedents and whether the same should be sustained.



- b. Whether the Honourable Court can grant the orders for joinder of the Applicant as an interested party.
- c. Whether suit should be consolidated with MSA ELC Case Number 309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General for hearing and determination.
- d. Who will bear the Costs of Notice of Motion application 16th September, 2024 and the Notice of Preliminary Objection dated 8th October, 2024.

Issue No. a). Whether the Preliminary Objection dated 8th October, 2024 by the Plaintiff met the thresholds of an objection as stipulated under the law and precedents and whether the same should be sustained.

- 9. Under this Sub – heading, the Honourable Court will decipher on the substratum of the matter is whether the objection raised pure points of law. In determining this instant Notice of Preliminary Objection, the Court will first consider what amounts to a Preliminary Objection and then Juxtapose the said description herein and come up with a finding on whether what has been raised herein fits the said description.
- 10. According to the Black Law Dictionary a Preliminary Objection is defined as being:

“In case before the tribunal, an objection that if upheld, would render further proceeding before the tribunal impossible or unnecessary.....”
- 11. The above legal preposition has been made graphically clear in the now famous case of “Mukisa Biscuits – Versus - Westend Distributor Ltd [1969] EA 696”, the court observed that: -

“A Preliminary Objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact had to be ascertained or if what is sought is the exercise of judicial discretion. The improper raising of points by way of Preliminary Objection does not nothing but unnecessarily increase costs and, on occasion, confuse the issue.”
- 12. This statement of the law has been echoed time and again by the courts: see for example, “Oraro – Versus - Mbaja [2007] KLR 141”. The same position was held in the case of “Nitin Properties Limited – Versus - Jagjit S. Kalsi & another Court of Appeal No. 132 of 1989[1995-1998] 2EA 257” where the Court held that:-

“A preliminary Objection raises a pure point of law which is argued on the assumption that all facts pleaded by the other side are correct. It cannot be raised if any facts has to be ascertained or if what is sought is the exercise of Judicial discretion.”
- 13. Similarly in the case of “United Insurance Company Limited – Versus - Scholastica A Odera Kisumu HCC Appeal No. 6 of 2005(2005) LLR 7396”, the Court held that;

“A preliminary Objection must be based on a point of law which is clear and beyond any doubt and Preliminary Objection which is based on facts which are disputed cannot be used to determine the whole matter as the facts must be precise and clear to enable the Court to say the facts are contested or disputed .”



14. Therefore from the above holdings of the Courts, it is clear that a preliminary Objection must be raised on a pure point of law and no fact should be ascertained from elsewhere. See also the case of “In the matter of Siaya Resident Magistrate Court Kisumu HCCMisc. App No. 247 of 2003” where the Court held that:-

“ A Preliminary Objection cannot be raised if any facts has to be ascertained.”

15. I have further relied on the decision of “Attorney General & Another – Versus - Andrew Mwaura Githinji & another [2016] eKLR” as it explicitly extrapolates in a more concise and surgical precision what tantamount to the scope, nature and meaning of a Preliminary Objection inter alia:-

- (i) A Preliminary Objection raised a pure point of law which is argued on the assumptions that all facts pleaded by other side are correct.
- (ii) A Preliminary Objection cannot be raised if any fact held to be ascertained or if what is sought is the exercise of judicial discretion; and
- (iii) The improper raise of points by way of preliminary objection does nothing but unnecessary increase of costs and on occasion confuse issues in dispute.

16. Taking into account the above findings and holdings of various Courts on what amounts to a preliminary Objection, the Court now turns to the grounds raised by the Plaintiff herein. The Plaintiff contended that the Court herein was “functus officio” in so far as Parcel of Land Kwale/Msambweni/ “A”/1708 is concerned and there were no proceedings and or suit pending over Parcel of Land or Kwale/ Msambweni/ “A”/1708 to warrant consolidation of the Suit herein with Mombasa ELC Case No. 309 of 2017 Panstaff Development Company Limited -v- Kore Forest Limited & The Attorney General. In this case, I am satisfied that the objection raises pure points of law in that the preliminary objection. Since an issue going to the ability to hear a suit is on the jurisdiction of this Court; the same must be dealt with in limine.

17. The other grounds on the Notice of Preliminary objection do not raise any triable issues under law therefore I shall not indulge this Honourable Court’s to determine the same.

18. The next question is then to determine whether the court is “functus officio” in so far as Parcel of Land Kwale/Msambweni/ “A”/1708 is concerned. The doctrine of ‘Functus Officio’ which means not re – opening a matter that has already been finalized by the said Court was stated by the Court of Appeal in the case of “Telcom Kenya Ltd – Versus - John Ochanda [2014]eKLR” as follows:-

“Functus Officio is an enduring principle of law that prevents the re-opening of a matter before a Court that rendered the final decision thereon –

The general rule that final decision of a Court cannot be re-opened derives from the decision of the English Court of Appeal in re-St Nazaire Co, (1879), 12 Ch. D88. The basis for it was that the power to rehear was transferred by the Judicature Acts of the appellate division.”

19. The functus officio doctrine is one of the mechanisms by means of which the law gives expression to the principle of finality. According to this doctrine, a person who is vested with adjudicative or decision making powers may, as a general rule, exercise those powers only once in relation to the same matter. The [principle] is that once such a decision has been given, it is (subject to any right of appeal to superior body or functionary) final and conclusive.



20. In addition the Supreme court also referred to the case of “Jersey Evening Post Limited – Versus - A. Thani [2002] JLR 542 at pg. 550” where the Court stated:-

“A court is functus when it has performed all its duties in a particular case. The doctrine does not prevent the court from correcting clerical errors nor does it prevent a judicial change of mind even when a decision has been communicated to the parties. Proceedings are only fully concluded, and the court functus, when its judgment or order has been perfected. The purpose of the doctrine is to provide finality. Once proceedings are finally concluded, the court cannot review or alter its decision; any challenge to its ruling on adjudication must be taken to a higher court if that right is available.”

21. In the instant case, its not disputed that a consent was recorded in the matter and a Decree issued on the 10th June 2022 settling the matter to wit one of the terms was Kore Forests Limited be and was hereby declared as the registered and bona fide proprietor of the property known as and registered as Kwale/Msambweni/ ‘A’/1708. To hold different would be reviewing the consent which would be an abuse of the court process.

22. In the foregoing on the ground, I discern and fully concur that this Court is “functus Officio”. Thus, it follows that the Notice of Preliminary Objection is upheld.

Issue No. b). Whether the Honourable Court can grant the orders for joinder of the Applicant as an interested party.

23. Under this sub – title we examine whether or not the Interested Party should be joined as a party in this suit. Joinder of parties is governed by Order 1 Rule 10 (2) of the Civil Procedure Rules which provides as follows:-

“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as Plaintiff or Defendant, be struck out, and that the name of any person who ought to have been joined, whether as Plaintiff or Defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

24. In law, the court may at any stage of the proceedings either on application by a party or on its own motion add a party to the suit if such party is necessary for the determination of the issues in dispute or whose presence is necessary in order to enable the court to effectively and completely adjudicate upon and settle all questions involved in the suit. Therefore, the issue of joinder of parties is allowed in law and can be done at any state of the proceedings. However, joinder of parties is declined where the cause of action being proposed or the relief being sought is incompatible to or totally different from the existing cause of action or the relief. The determining factor in an application for joinder is that a common question of fact or law would arise between the existing and the intended parties.

25. In the case of “Joseph Njau Kingori – Versus - Robert Maina Chege & 3 Others [2002] eKLR”, Nambuye, J (as she then was) set out the guiding principles applications seeking for joinder of parties as follows:-

“...parties cannot be added so as to introduce quite a new cause of action or to alter the nature of the suit. Necessary parties who ought to have been joined are parties who are necessary to



the constitution of the suit without whom no decree at all can be passed. Therefore in case of a Defendant two conditions must be met:

- (1) There must be a right to some relief against him in respect of the matter involved in the suit.
- (2) His presence should be necessary in order to enable the Court effectively and completely to adjudicate upon and settle all the questions involved in the suit being one without whom no decree can be made effectively and one whose presence is necessary for complete and final decision on the questions involved in the proceedings.

A proper party is one who has a designed subsisting direct and substantive interest in the issues arising in the litigation which interest will be recognizable in the Court of law being an interest, which the Court will enforce. A person who is only indicated or commercially interested in the proceedings is not entitled to be added as a party. But a person may be added as a Defendant though no relief may be claimed against him provided his presence is proper for a complete and final decision of the question involved in the suit and such a person is called a proper party as distinguished from a necessary party... Order 1 Rule 10 allows the Court to add a Defendant on its own motion or upon application by either party either orally or formally by summons in chambers under Order 1 Rule 22. Here the party has not moved on its own but has been moved by the intending party on its own formally. The use of the words “either party” denotes that the formal move has to be made by a party already participating in the proceedings and it would mean that an intending party cannot come on his own and choose which position he wants.”

26. It is the Intended Interested Party’s case that it is a necessary party to these proceedings for the reason that as an owner of the property, this Court had a constitutional duty under Article 40 to protect her right from arbitrary and unlawful deprivation of the property. Consistently, the Applicant contended that any title that was issued to the Plaintiff or to any other party in this suit was fraudulent and dubious. The question this Court needs to answer is whether the Intended Interested Party is a necessary party to this suit and whether the final decree cannot be enforced without its presence in the matter.
27. Based on the analysis above, this Court finds merit in the application for joinder of the Intended Interested Party and thus it is allowed as prayed.

Issue No. c). Whether suit should be consolidated with MSA ELC Case Number 309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General for hearing and determination.

28. Under this sub title we shall examine whether this suit should be consolidated with the Civil Case “MSA ELC Case Number 309 of 2017: Panstaff Development Company Limited – Versus - Kore Forest Limited & the Attorney General. The jurisdiction to consolidate suits is donated by the provision of Section 81 (h) of the Civil Procedure Act, cap. 21 and Order 11 Rule 3 of the Civil Procedure Rules, 2010. In the case of:- “Prem Lala Nahata & Anor – Versus - Chandi Prasad Sikaria [2007] 2 Supreme Court Cases 551”, the India Supreme Court held:-

“It cannot be disputed that the Court has power to consolidate suits in appropriate cases.... The main purposes of consolidation is therefore to save costs, time and effort and to make the conduct of several actions more convenient by treating them as one action. The



jurisdiction to consolidate arises where there are two or more matters or causes pending in the court and it appears to the court that some common questions of law or fact arises in both or all the suits or that the rights or relief claimed in the suits are in respect or arise out of the same transactions or series of transactions; or that for some other reasons it is desirable to make an order consolidating the suit.”

29. In the case of “Law Society of Kenya – Versus - Center for Human Rights & Democracy & 12 Others [2014] eKLR”, the Supreme Court of Kenya held: -

“The essence of consolidation is to facilitate the efficient and expeditious disposal of disputes and to provide a framework for a fair and impartial dispensation of justice to the parties. Consolidation was never intended to confer any undue advantage upon the party that seeks it, nor was it intended to occasion any disadvantage towards the party who opposes it.”

30. The situations in which consolidation can be ordered include where there are two or more suits for matters pending in the same court where: -

- a. Some common questions of law or fact arises in both or all of them.
- b. The rights or reliefs claimed in them are in respect of the same transactions;
- c. For some other reasons, it is desirable to make an order for consolidating them.

31. From the foregoing, it is clear that the Court has a wide discretion in ordering consolidation. Consolidation will be ordered if there is a common question of law or fact in the suits, the reliefs or rights sought arise from the same or a series of transactions, or for any other reason such as for convenience, avoiding multiplicity of suits, expedition and in order to meet the overriding objective set out in the *Civil Procedure Act*, Cap. 21 Laws of Kenya.

32. The grounds upon which the present application was made were inter-alia, that the suits raise a common question of law and fact, that the transactions are inter-related and it would be convenient to try all the suits together. The Motion was opposed on the grounds that the suits was that there were no proceedings in the former suit and that one the suit land the Applicant claimed he wanted to claim under the consolidation has already been disposed of with by way of a consent.

33. In the Court’s view, based on the directions already imparted by this Honourable on 11th March, 2025, there shall be consolidation of the two suits – ELC No. 245 of 2021 and Miscellaneous Application Number 003 of 2021. Thus, the prayer on consolidation is found to be meritorious and allowed therof.

Issue No. d). Who will bear the Costs of Notice of Motion application 16th September, 2024 and the Notice of Preliminary Objection dated 8th October, 2024.

34. It is now well established that the issue of Costs is at the discretion of the Court. Costs meant the award that is granted to a party at the conclusion of the legal action, and proceedings in any litigation. The Proviso of Section 27 (1) of the Civil Procedure Rules Cap. 21 Laws of Kenya holds that Costs follow the events. By the event, it means outcome or result of any legal action. This principle encourages responsible litigation and motivates parties to pursue valid claims. See the cases of “Harun Mutwiri – Versus - Nairobi City County Government [2018] eKLR and “Kenya Union of Commercial, Food and Allied Workers – Versus - Bidco Africa Limited & Another [2015] eKLR, the court reaffirmed that the successful party is typically entitled to costs, unless there are compelling reasons for the court to decide otherwise.



35. I have well stated in previous precedence and most especially in “Sagalla Lodge Limited – Versus - Samwuel Mazera Mwamunga & another (Suing as the Executors of Eliud Timothy Mwamunga – Deceased) [2022] eKLR”, that:

“ 58. The Black Law Dictionary defines “Cost” to means, “the expenses of litigation, prosecution or other legal transaction especially those allowed in favour of one party against the other”.

The provisions of Section 27 (1) of the *Civil Procedure Act*, Cap. 21 holds that Costs follow events. The issue of Costs is the discretion of Courts. From this provision of the law, it means the whole circumstances and the results of the case where a party has won the case. The events in this case is that the Notice of Motion application dated 7th December, 2021 by the Plaintiff has succeeded and hence they are entitled to costs of the application and that of the Defendants dated 21st December, 2021.”

36. The provision of Section 27 (1) of the *Civil Procedure Act*, Cap. 21 holds that costs follow the events. In the case of “Hussein Muhumed Sirat – Versus - Attorney General & Another [2017] eKLR, the court stated that costs follow the event as a well-established legal principle, and the successful party is entitled to costs unless there are other exceptional circumstances. In the present case, the Honourable Court elects to have the costs in the cause.

VII. Conclusion and Disposition

37. In long analysis, the Honorable Court has carefully considered and weighed the conflicting parties’ interest as regards to balance of convenience.

38. Having said that much, there will be need to preserve the suit land in the meantime. In a nutshell, I proceed to order the following:-

- a. That the Notice of Motion application dated 16th September, 2024 be and is hereby found to have merit and is partially allowed in respect to prayer (a).
- b. That the Notice of Preliminary objection dated 8th October, 2024 be and is hereby partially sustained on the fact that this Honourable Court is functus officio on the issue of the ownership of Kwale/Msambweni ‘A’/1708 (the property). The same subject matter shall be scrapped from the records of this suit.
- c. That the Applicant, Panstaff Development Company Limited be and is hereby joined as an Interested Party in this suit.
- d. That an order be made for the parties to fully comply with the provision of Orders 7 and 11 of the Civil Procedure Rules, 2010 within the next 21 days. Thereafter, the other parties be and are hereby granted liberty to file documents as they may wish within the next 14 days thereafter.
- e. That for good order and consistency, these matters to be governed based on the directions of this Court issued on 11th March, 2025 and uploaded into the Judiciary CTS Portal on 17th March, 2025.
- f. That the matter be mentioned 25th September, 2025 for compliance and further directions whatsoever.



- g. That the costs of the Notice of Motion and Notice of Preliminary Objection shall be in the cause.

It is so ordered accordingly.

RULING DELIVERED THROUGH MICROSOFT TEAM VIRTUAL, SIGNED AND DATED AT KWALE THIS 19TH DAY OF JUNE, 2025.

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HON. MR. JUSTICE L. L. NAIKUNI

ENVIRONMENT AND LAND COURT AT KWALE

Ruling delivered in the presence of:

- a) Mr. Daniel Disii, the Court Assistant.
- b) Mr. Mureithi Advocate for the Proposed Applicant.
- c) Mr. Maithya Advocate holding brief for Mr. Opullu for the Ex – Parte Applicant in Miscellaneous No. 3 of 2021.
- d) Mr. Gatheru for the Interested Parties in Miscellaneous No. 3 of 2021.
- e) Mr. Kiprono Advocate holding brief for M/s. Saru Advocate for the 2nd Defendant in ELC no. 245 of 2021 & 2nd Respondent in Miscellaneous No. 3 of 2021.

