



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT THIKA

ELC CASE NO.37 OF 2020

KANDARA RESIDENCE ASSOCIATION.....1ST PLAINTIFF/RESPONDENT

KARIRA KIMARA.....2ND PLAINTIFF/RESPONDENT

VERSUS

ANANAS HOLDINGS LIMITED.....1ST DEFENDANT

EXECUTIVE COMMITTEE MEMBER FOR LANDS;

COUNTY GOVERNMENT OF KIAMBU.....2ND DEFENDANT

DIRECTOR OF PHYSICAL PLANNING

COUNTY GOVERNMENT OF KIAMBU.....3RD DEFENDANT

JAMES MAINA.....4TH DEFENDANT

NICK WAWERU.....5TH DEFENDANT

AND

DIRECTOR OF SURVEY.....1ST INTERESTED PARTY

CABINET SECRETARY LAND AND

PHYSICAL PLANNING.....2ND INTERESTED PARTY

THE NATIONAL LAND COMMISSION.....3RD INTERESTED PARTY

DEL MONTE (K) LTD.....4TH INTERESTED PARTY

RULING

There are three **Notices of Preliminary Objections**, for determination. The first one is the Notice of Preliminary Objection dated **17th June 2020** by the 2nd to 5th Defendants based on the following grounds;

1. THAT the present suit amounts to subjudice.

2. THAT, this Court lacks jurisdiction to hear the suit herein by virtue of the express provisions of section 6 of the Civil Procedure Act.

3. THAT there has been another suit and that there have been previous proceedings in Muranga ELC Suit No. 53 of 2018, between the parties of the suit premises Land reference No. 13169 now Block 14/102, and the Defendants concerning the same subject matter and the cause of action relates to the Plaintiff named in the Plaint.

4. The whole suit is ill conceived, fatally defective and incompetent and should be struck out and/or dismissed.

They urged the Court to dismiss the Plaintiffs/Applicants Application and dismiss the entire suit.

The 2nd Preliminary Objection is the one dated 17th June 2020, by the 4th Interested Party and sought for dismissal of the suit on the grounds that;

1. THAT the suit is incompetent as the 1st plaintiff, being an unincorporated body has no capacity to sue in the manner it has purported to do. The 2nd Plaintiff has not set out any independent cause of action.

2. This Honourable Court has no jurisdiction to hear and determine the claim herein which is based on alleged historical injustices dating back to 1895.

3. The suit is time barred.

The 3rd Notice of Preliminary Objection is the one dated 23rd June 2020, by the 1st Defendant on the grounds that;

a) That this Honourable Court has no jurisdiction to hear this Application and

b) The Application is inherently bad in law.

The Preliminary Objections were canvassed by way of written submissions. The Plaintiffs through the **Law Firm of Okatch & Partners** filed its submissions dated 20th July 2020, and submitted that while it is indeed the position that the 1st Plaintiff on its own does not have the legal capacity to sue, Courts have reiterated that Societies can only sue in a representative capacity. It was further submitted that the 1st Plaintiff instituted the suit through its chairman, a fact that is deponed under paragraph 2 in the Verifying Affidavit of the 2nd Plaintiff. Further that the Plaintiffs have attached the 1st Plaintiff's Certificate of Registration and Authority to the 2nd Plaintiff to swear Court documents and institute the instant suit on behalf of the 1st Plaintiff.

The Plaintiffs further submitted that the objection based on **Section 7 of the Limitation of Actions Act** is misconceived and that the instant suit does not fall within the purview of the actions envisaged under the **Limitations of Actions Act**, as the suit stems from the provisions of **Article 67(2) (e)** of the Constitution. Further, the Plaintiff's submitted that the instant suit springs from the determination of the **National Land Commission**, and the actions of the 1st Defendant and the 4th Interested Party in the ensuing period after the determination of the 3rd Interested Party.

It was further submitted that the objection on whether the suit is subjudice as raised by the 2nd, 3rd 4th and 5th Defendants does not meet the threshold of a Preliminary Objection as was held in the **Mukisa Biscuit Case**. Further that **Section 6 of the Civil Procedure Code** provides for stay of a subsequent suit, if the same is found to be subjudice. The Plaintiff relied on the case of **Muturi Investments...Vs... NBK (2006) eKLR** where the Court held that:-

“Where two actions have a common question of law and fact in that documents which will be relied on shall also require similar interpretation from the Court then if the other suit is heard separately, would mean that the evidence submitted by the parties will be duplicated in both.”

It was further submitted that there are several distinguishing elements that have to be established determining whether a subsequent suit offends the doctrine of subjudice.

It was the Plaintiffs' further submissions that the parties in **Muranga ELC 53 of 2018**, are not the same parties as in the instant suit. That the subject matter in the said suit is not the same and the two suits have different issues of law and fact.

Further that the question as to whether a suit discloses a reasonable cause of action is not a question to be determined by way of a **preliminary objection**, since the same is a question of fact and evidence that can only be ascertained through the perusal of the evidence and pleadings on records. That the Court's power to strike out pleadings is to be exercised sparingly and cautiously as the Court exercises its powers without being fully informed on the merits. The Court was urged to dismiss the Preliminary Objections.

The 1st Defendant filed its written submissions through the **Law Firm of J. Louis Onguto Advocates**, dated 3rd July 2020, and submitted that the Plaintiffs have no **locus standi**, to file the claim and further that the this Court has no jurisdiction to hear and determine the Plaintiffs Application and suit. It was its submission that its Preliminary Objection falls within the boundaries of a Preliminary Objection. Further that a non-existent person cannot sue and is incapable of maintaining the action. That the Plaintiffs have in their Plaint alleged that the 1st Plaintiff is a Society duly registered under the Societies Act. However, it is now settled law that these entities have **no** capacity to sue or be sued on their own. It was further submitted that the Plaintiffs have not established that a Society by the name **Kandara Residence Association**, exists or was registered. Further that the 1st Plaintiff has instituted the pleadings in its own name.

The 1st Defendant further submitted that the 2nd Plaintiff has no written authority allowing him to swear an Affidavit on their behalf as to meet the legal test of the party swearing the Affidavit must file a written authority from the party on whose behalf they are swearing the Affidavit. That the Court of Appeal in **Research International East Africa Limited...Vs... Julius Arisi & 213 others** stressed that non-compliance with the basic requirement would entitle a Court to strike out the offending pleadings.

Further that the Court lacks jurisdiction to hear and determine the matter as the complaints that the Plaintiffs have advanced fall within the planning laws of Kenya and that matters relating to **Planning, use, regulation and development** of land are now governed by the **Physical Planning Act** and that the preamble is clear on the aspect, as it requires any person who is aggrieved by the decision of a Planning Authority has recourse under the framework established by the Act. It was further submitted that **Section 76** of the **Physical Planning Act** establishes the **County Physical and Land Use, Planning Liaison Committee** and the appropriate procedure by the Plaintiffs would therefore be to seek redress from the Committee as under **Section 80 of the Act**, the Committee since obliged to hear and determine any appeals regarding a decision handed down by a Planning Authority. The Court was urged to uphold the 1st Defendant's Preliminary Objection.

The 2nd, 3rd, 4th and 5th Defendants also filed their submissions dated **8th July 2020**, through **Keziah Mbugua, Legal Counsel for the Kiambu County Government**. It was their submissions that the Court is barred by the doctrine of **subjudice** and **res judicata** from entertaining the present suit. It was further submitted that Paragraph 7 of the Plaintiffs clearly states that there has been another suit and previous proceedings in another Court, between some tenants of the suit premises and the Defendants and therefore parties cannot be litigating over the same matters in different Courts. Further that if the Court was to find that the Parties in **ELC 53 of 2018, Muranga**, are both the same as the ones in this Court, then the suit is still barred by issue of estoppel. It was further submitted that the matter has been determined at interim stage by another Court and therefore the suit is **Res Judicata**. They relied on various decided cases and the Court was urged to uphold the Preliminary Objection.

The 4th interested Party filed its submissions dated **1st July 2020**, and further submissions dated **14th August 2020**, through the Law Firm of **Njoroge Regeru & Company Advocates** and submitted that the 1st Plaintiff being an unincorporated body has no capacity to institute the suit. It relied on the case of **Kipisiwo SelfHelp Group...Vs.... Attorney General & 6 others (2013) eKLR** where the Court held that;

“I think the issue is not really whether unincorporated entities may commence action but the manner in which unincorporated entities may commence proceedings. A number of individuals may come together and form an identifiable group. They can bring action as the group, but it does not mean, that the group is now vested with legal capacity to sue and to be sued. In such instance, the members of the group have to bring action in their own names, as members of the Group, or a few can bring action on behalf of the other members of the group, in the nature of a representative action. Unincorporated entities have no legal capacity and cannot therefore sue in their own names. They can however sue through an entity with legal capacity. Just because the Constitution allows unincorporated bodies to sue, does not vest such bodies with legal capacity, and such bodies do not become persons in law, and cannot be the litigants or sue in their own standing. They still have to use the agency of a person recognized in law as having capacity to sue and to be sued.”

The 4th interested Party further submitted that the 2nd Plaintiff has failed to establish an independent cause of action as the issue of capacity to sue is critical. It was its submissions that the Court must be able to identify the parties with precision. Further that it stands to suffer immense prejudice if a party which has no capacity to sue is allowed to sue as they would not know who to pursue for costs in case the suit is dismissed. Further that the 2nd Plaintiff has not complied with the law that distinctively sets out the procedure for instituting a representative suit. Most specifically **Order 1 Rule 8** of the Civil Procedure Rules.

It was further submitted that the suit is time barred by the provisions of **Section 7 of the Limitations of Actions Act** as the cause of action is the alleged eviction of the Plaintiffs ancestors from the suit property and that such a claim ought to be instituted within **12 years** of the accrual of the cause of action. The 4th Interested Party further submitted that the suit offends the doctrine of **subjudice** as there exists two other cases, which deal with the issues connected to those raised in the instant suit.

In its further submissions, the 4th Interested Party submitted that it was wrong for the Plaintiffs to respond to a Preliminary Objection through an Affidavit as a Preliminary Objection is usually based on law and not facts. It was submitted that the Plaintiffs argument that the suit has been instituted by **Mr. Karira Kimara**, on behalf or as a Representative of the 1st Plaintiff has no basis, as the Plaintiffs does not state that the suit is being instituted by **Mr. Karira** on behalf of the 1st Plaintiff and that such information is being supplied through an Affidavit. Further that the Plaintiffs cannot be allowed to rely on an Affidavit purporting to plead their case in a manner that is different and indeed contradictory to the case as pleaded in the Plaintiffs. It was further submitted that the Authority of **Kamiti Forest Squatters Association**, as quoted by the Plaintiffs, the Court rightly spared the suit of the 1st Plaintiff because it had not sued on its own name. However the 2nd and 3rd Plaintiffs were Societies suing in their names instead of their officials and they were struck out.

The 2nd Plaintiff filed a further Affidavit sworn on **17th July 2020** in which he averred that he was the **Chairman of Kandara Residence Association** and that the same is fully registered. He further averred that on **5th June 2020**, the Board of Management resolved that its Chairman was to proceed and take requisite steps to institute a suit against the Respondents herein.

The Court has now carefully read and considered the Preliminary Objections together with the rival written submissions and renders itself as follows:-

A Preliminary Objection was described in the **Mukisa Biscuits Manufacturing Co. Ltd...Vs...West End Distributors Ltd (1969) EA 696** to mean:-

“So far as I am aware, a Preliminary Objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings, and which if argued as a preliminary point may dispose of the suit. Examples are an objection to the jurisdiction of the court or a plea of limitation, or a submission that the parties are bound by the contract giving rise to the suit to refer the dispute to arbitration”.

Further Sir **Charles Nebbold, JA** stated 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. The improper practice should stop”.

The above being the description of a **Preliminary Objection**, it is not in doubt that a **Preliminary Objection** raises pure point of law, which is argued on the assumption that all facts pleaded by the other side are correct. However, it cannot be raised if any facts has to be ascertained from elsewhere or if the court is called upon to exercise judicial discretion.

In the case of **Quick Enterprises Ltd..Vs..Kenya Railways Corporation, Kisumu HCCC No.22 of 1999**, the Court held that:-

“When preliminary points are raised, they should be capable of disposing the matter preliminarily without the Court having to result to ascertaining the facts from elsewhere apart from looking at the pleadings.”

In determining a **Preliminary Objection**, the Court will also take into account that the **Preliminary Objection** must stem from the pleadings and raises pure point of law. See the case of **Avtar Singh Bhamra & Another...Vs....Oriental Commercial Bank, Kisumu HCCC No.53 of 2004**, where the Court held that:-

“A Preliminary Objection must stem or germinate from the pleadings filed by the parties and must be based on pure points of law with no facts to be ascertained.”

Before the Court embarks on determining the merit of the **Notices of Preliminary Objections**, it will first determine whether what have been raised by the parties herein satisfy the ingredients of a **Preliminary Objection**. In this determination, the Court will be persuaded by the findings in the case of **Oraro...Vs...Mbaja(2005) 1KLR 141**, where it was held that:-

“Anything that purports to be a Preliminary Objection must not deal with disputed facts and it must not derive its foundation from factual information which stands to be tested by rules of evidence”.

The 2nd to 5th Defendants have in their Preliminary Objection averred that the suit herein is **Subjudice** to another suit and further that the suit is **Resjudicata** as it relates to **ELC 53 OF 2018**, in Muranga, which has already been decided in the interim stage. The Plaintiffs in their submissions have disputed that fact that the suit herein is **Subjudice** or that the same is **Resjudicata**. It is the Plaintiffs contention further that the issue of whether or not the suit is **Subjudice** will require the ascertaining of facts. In the case of **Henry Wanyama Khaemba...Vs... Standard Chartered Bank Ltd & Another (2014) ECLR**, the Court held that:

“That re-statement of the limited scope of a Preliminary Objection brings me to the point where I hold that the Preliminary Objection by the 1st Defendant is not a true Preliminary Objection in the sense of the law. The issues of res judicata, duplicity of suits and suit having been spent will require probing of evidence as it is already evident from the submissions by the 1st Defendant. They are incapable of being handled as Preliminary Objections because of the limited scope of the jurisdiction on preliminary objection. Court of laws have always had a well-founded quarrel with parties who resort to raising preliminary objections in improperly”.

Further in the case of **George Kamau Kimani & 4 Others...Vs...County Government of Trans Nzoia & Another (2014), eCLR**, where the Court held that:-

“I have considered the points raised by the 1st Defendant. All those points can be argued in the normal manner. They do not qualify to be raised as Preliminary Points. One cannot raise a ground of res judicata by way of Preliminary Objection. The best way to raise a ground of res judicata is by way of Notice of Motion where pleadings are annexed to enable the court to determine whether the current suit is res judicata. Professor Sifuna did not raise the issue of res judicata by way of Notice of Motion. Professor Sifuna only annexed a ruling in respect of a case which was struck out. This is not a proper way of issues which require ascertainment of facts by way of evidence. They cannot be brought by way of Preliminary Objection”.

For the Court to determine whether the issues herein were directly and substantially in issue with the other suit, it is this Court’s considered view that it will have to ascertain facts and probing of evidence. Further the issue on whether or not the same is **Subjudice**, facts have to be ascertained and a Preliminary Objection cannot be raised on disputed facts. Therefore, this Court holds and finds that what has been raised by the 2nd to 5th Defendants does not amount to a **Preliminary Objection**, hence the same is dismissed.

On the 1st Defendants **Notice of Preliminary Objection** that the Court has no jurisdiction and that the Application is inherently bad in law, it is not in doubt that without jurisdiction a Court of law has no option but to down its tools. A question of jurisdiction is based on a pure point of law and therefore the Court finds and holds that the said objection meets the description of what amounts to a Preliminary Objection.

Further the 4th Interested Party raised its Preliminary Objection and alleged that the suit is incompetent as the 1st Plaintiff has no capacity to sue in the manner that it has sued. That the 2nd Plaintiff has not set out any independent cause of action, and thus the Court has no jurisdiction and the suit is time barred. As already held above, the issue of jurisdiction is a Preliminary Objection properly raised as it can dispose off a suit preliminarily and does not require the ascertainment of facts. Equally the question of whether the Plaintiffs have locus standi to file this suit goes to the jurisdiction of this Court. Without **locus**, a suit cannot stand and therefore the Court also finds and holds that the same is a properly raised Preliminary Objection. See the case of **Law Society of Kenya ...Vs... Commissioner of Lands & Others, Nakuru High Court Civil Case No.464 of 2000**, where the Court held that ;-

“Locus Standi signifies a right to be heard, A person must have sufficiency of interest to sustain his standing to sue in Court of Law”. Further in the case of Alfred Njau and Others ..Vs.. City Council of Nairobi (1982) KAR 229, the Court also held that;-

“the term Locus Standi means a right to appear in Court and conversely to say that a person has no Locus Standi means that he has no right to appear or be heard in such and such proceedings”.

It is evident that **locus standi** is the right to appear and be heard in Court or other proceedings and literally, it means ‘a place of standing’. Therefore if a party is found to have no **locus standi**, then it means he/she cannot be heard even on whether or not he has a case worth listening to. Further if this Court was to find that the Applicants have no **locus standi**, then the Applicants cannot be heard and that point alone may dispose of the suit. In the case of Quick Enterprises Ltd ...Vs... Kenya Railways Corporation, Kisumu High Court Civil Case No.22 of 1999, the Court held that:-

“When preliminary points are raised, they should be capable of disposing the matter preliminarily without the court having to resort to ascertaining the facts from elsewhere apart from looking at the pleadings alone.”

On whether the suit is time barred or not, the Court finds that the same would not require probing of evidence or ascertaining of facts and thus the same is also a Preliminary Objection properly raised.

Having held and found that what has been raised by the objectors herein fits the description of a Preliminary Objection, the Court will now embark on determining whether the Preliminary Objections are merited.

It is the 1st Defendant's contention that the Plaintiffs have no **locus standi** to file this claim. This contention is based on the fact that the 1st Plaintiff does not exist and further that the 2nd Plaintiff has **no written** authority and this has been submitted as such. The Court recognises that while determining issues via Preliminary Objection, the Court should not be required to probe evidence. However, the 1st Defendant having alleged that the Plaintiffs did not exist, evidence of its existence was provided through a further affidavit together with a written authority which in the Court's considered view settles the matter.

Further, it is important to note that though over time, there has been a requirement for a written authority to be presented, the Courts have pointed out that the said written authority is not necessary as long as the deponent has stated that he has the said authority. See the case of Bethany Vineyards Limited & Another v Equity Bank Limited & 2 Others [2020] eKLR where the Court held that;

“The decision has since been applied in Kenyan courts, for example, in Fubeco China Fushun v Naiposha Company Limited & 11 others [2014] eKLR.

10. It does become apparent that there is no requirement for a company to present a resolution of a company indicating that a company has authorized the filing of a suit or has authorized the swearing of an affidavit on its behalf nor, for that matter, confirming it has authorized an advocate to represent it. It suffices for the deponent to state that he has authority to do such act.”

Therefore, this court finds and holds that the Preliminary objection based on non-existence of the 1st Plaintiff and lack of written authority are not merited and the Court dismisses the same.

The 4th Interested Party on the other hand has raised an objection on the basis of the 1st Plaintiff to sue on its own name and further that the 2nd Plaintiff lacks an independent cause of action. The Plaintiffs in their submissions have acknowledged that the 1st Plaintiff has no capacity to sue in its own name. However, they submitted that the 2nd Plaintiff has sued on behalf of the 1st Plaintiff. **Section 41** of the **Societies Act** provides;

“Whereby a Society is charged with an offence under this Act or any rules made thereunder, the Society may appear by a representative, who may enter a plea on behalf of the Society and conduct the Society's defence on its behalf.

(2) In this Section representative in relation to a Society means a person who the Court is satisfied has been duly appointed in writing by the Society to represent it.”

With regards to the 1st plaintiff, the Court is satisfied that it does not have **locus standi** to sue the way it has sued and for that reason, it should be struck out from the suit.

As to whether the 2nd Plaintiff has an independent reasonable cause of action, this issue goes to the merits of the case and can only be ascertained at the trial. See the case of Wilmot Mwadilo, Edwin Mwakaya, Amos Nyatta & Patrick Mbinga ...Vs...Eliud Timothy Mwamunga & Sagalla Ranchers Limited [2017] eKLR, where the Court held that:-

“Upholding the said Preliminary Objection at this stage would be draconian as there appeared to be substantive issues that had emerged that needed to be heard and determined at the time of the hearing of the said Notice of Motion application.

Indeed, the question of whether they have a cause of action against the Defendant and if they can sustain the same against him ought to be considered during the hearing of their Notice of Motion application when this court will consider whether or not leave should be granted for them to continue with the derivative action against him. The said question cannot be considered at this stage as there is potential of the court inadvertently delving into the merits or otherwise of their said application”.

Further, it is disputed as to whether the 2nd Plaintiff has filed the suit on behalf of the 1st Plaintiffs. The 4th interested Party in its submissions submitted that the Plaint does not state that the suit is being instituted by **Mr. Karira** on behalf of the 1st Plaintiff. It would seem in the Court's considered view that the only issue is that, in the jurat the 2nd Plaintiff does not indicate that he is suing on behalf of the 1st Plaintiff. **Section 41((2) of the Societies Act provides that:**

“In this Section representative in relation to a Society means a person who the Court is satisfied has been duly appointed in writing by the Society to represent it.”

The Court has seen the Authority given to the 2nd Plaintiff to act on behalf of the 1st Plaintiff. Therefore, this Court is satisfied that the 2nd plaintiff being the Chairman; that is an official of the 1st Plaintiff and with Authority to represent it, has locus standi. Consequently, the Court finds and holds that while the 1st Plaintiff has **no locus standi**, the 2nd Plaintiff has such **locus standi** .

On the issue of jurisdiction, it is the 1st Defendant's contention that the Court does not have jurisdiction to hear the matter as it is ripe for review. It is their contention that the Plaintiffs complaints fall within the planning laws of Kenya. However having gone through the Plaint, the Court finds that the Plaintiffs are questioning the process of acquisition of the suit property and the subsequent sale of the same. Even in its prayers, there is no prayer that involves the planning, use and regulation of the development as submitted by the 1st Defendant. For the above reasons, the Court finds and holds that the objection on jurisdiction based on this fact is **not** merited and the same is dismissed.

The 4th Interested Party has also submitted that the suit is **time** barred as the cause of action is the alleged eviction of the Plaintiffs' ancestors from the parcel of land dating back to **1895**. However, having carefully gone through the Plaint , it is the Court's considered view that the said suit finds its foundation from the determination of the **National Land Commission** that was made on **7th February 2019**. It is not in doubt that the **National Land Commission** is empowered to look at historical injustices and make a recommendation and that it is in the basis of the said determination that the suit was filed. Therefore, it cannot be said that the suit is based on historical injustices and thus time barred. Again the Court finds and holds that the objection on jurisdiction is **not** merited.

The Upshot of the foregoing analysis is that the 2nd to 5th Defendants **Preliminary Objection** dated **17th June 2020**, is **not** merited and the same is dismissed entirely with Costs.

With Regards to the 1st Defendants' Preliminary Objection dated **23rd June 2020**, the Court finds it **not** merited and the same is also dismissed entirely with costs. However, the 4th Interested Party's Preliminary Objection dated **17th June 2020**, is merited in so far as the 1st Plaintiff has **no locus standi** and therefore the 1st Plaintiff is struck out of the suit. With regards to the issue of **locus standi** for the 2nd Plaintiff, the Court finds that the said Preliminary Objection is not merited and the same is dismissed.

On the issue of jurisdiction and on whether the suit is time barred, the Court having held that the same is not time barred, dismisses the said Preliminary Objection. Consequently, the Preliminary Objection by the 4th Interested Party is upheld only in terms of the capacity of the 1st Plaintiff to sue, who has been struck out of this suit.

It is so ordered.

Dated, signed and Delivered at Thika this 1st day of October 2020

L. GACHERU

JUDGE

1/10/2020

Court Assistant - Lucy

ORDER

In view of the declaration of measures restricting court operations due to the **COVID-19** Pandemic, and in light of the directions issued by His Lordship, the Chief Justice on **15th March 2020**, this **Ruling** has been delivered to the parties online with their consents. They have waived compliance with **Order 21 rule 1** of the **Civil Procedure Rules** which requires that all judgments and rulings be pronounced in open Court.

With Consent of and virtual appearance via video conference (Microsoft Teams Platform)

Mr. Ikua for the 1st and 2nd Plaintiffs/Applicants

Mr. Abuya for the 1st Defendant/Objector

No appearance for the 2nd Defendant/ Objector

No appearance for the 3rd Defendant/Objector

No appearance for the 4th Defendant/Objector

No appearance for the 5th Defendant/Objector

No appearance for the 1st Interested Party

No appearance for the 2nd Interested Party

No appearance for the 3rd Interested Party

Mr. Thuo for the 4th Interested Party/Objector

L. GACHERU

JUDGE

1/10/2020