



REPUBLIC OF KENYA



KENYA LAW
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**Gonzi v Kithunga & 7 others (Environment and Land Case
E019 of 2025) [2025] KEELC 6159 (KLR) (24 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6159 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND CASE E019 OF 2025
FM NJOROGE, J
SEPTEMBER 24, 2025**

BETWEEN

JOSEPH KARISA GONZI PLAINTIFF

AND

KARISA KITHUNGA ALIAS KIVESO & 7 OTHERS DEFENDANT

RULING

1. The defendants filed an application dated 27th March 2025 seeking an order striking out the present suit for one of jurisdiction and for being in violation of Section 30 of the [Land Adjudication Act](#) and the plaintiff do bear the costs of the suit. The application is supported by the sworn affidavit of Gabriel Gona Mwanengo, the 5th defendant.
2. The grounds upon which the application is made are elaborated at the bottom thereof and in the supporting affidavit as follows: that the suit falls under Msara Wa Tsatsu Adjudication Scheme and therefore is under the ambit of the [Land Adjudication Act](#); that there is a ruling by the chairman of Msara Wa Tsatsu adjudication scheme made on 10th December 2023 confirming this fact. The defendants aver that no notice has ever been issued to declare that the suit properties have ceased to be under the adjudication scheme. Finally, it was stated that it offends Section 30 of the [Land Adjudication Act](#). The alleged ruling of 10th December 2023 has been attached as an exhibit in the affidavit in support.
3. The plaintiff filed his sworn affidavit in response to the motion dated 27th May 2025 in which denied that the suit is under adjudication. It is stated that the adjudication processes were canceled, as confirmed by the Chairman of the scheme and referred to the chairman's recorded statement in the suit as well as a letter dated 25th May 2025.
4. Parties were ordered to file submissions on the motion and, according to the CTS, only the plaintiff did so.



5. It having been ordered by this court that the motion would be tried by way of written submissions, and no other method of disposal having been prescribed, the defendants, by failing to find the submissions, have failed to prosecute the application and it is hereby dismissed for want of prosecution with costs to the respondent.
6. Parties shall prepare for the hearing and they shall comply with Order 11 of the Civil Procedure Rules, the plaintiff within 21 days and the defendants within 21 days of service by the plaintiff, and the matter shall be listed for fixing of a mutually convenient hearing date on 27/11/2025.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 24TH DAY OF SEPTEMBER, 2025.

MWANGI NJOROGE

JUDGE, ELC, MALINDI.

