



Passenga Limited & another v Mwangi (Environment and Land Case E022 of 2023) [2025] KEELC 6322 (KLR) (24 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6322 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KWALE
ENVIRONMENT AND LAND CASE E022 OF 2023
LL NAIKUNI, J
SEPTEMBER 24, 2025**

BETWEEN

PASSENGA LIMITED 1ST PLAINTIFF

PAULA MARIA RUHLE 2ND PLAINTIFF

AND

LUCY MUMBI MWANGI DEFENDANT

RULING

I. Introduction

1. This Honourable Court is called upon to make a determination onto the Notice of Motion application dated 17th February, 2025. It was brought by Lucy Mumbi Mwangi, the Defendant/ Applicant herein under the provisions of Sections 5 and 6 of the *Civil Procedure Act*, Cap. 21, Order 51 Rule 1 of the Civil Procedure Rules, 2010 and all other enabling provisions of law.
2. Upon service of the said application upon Plaintiffs/ Respondents, they opposed it through filing of a Replying Affidavit sworn on 5th March, 2025. Further, the Estate of Peter Ruhle responded their responses through a Replying Affidavit sworn on 25th February, 2025.

II. The Defendant/Applicant's application

3. The Defendant/Applicant sought the following orders: -
 - a. That this Honourable Court be pleased to find that this suit is sub judice under Section 6 of the *Civil Procedure Act*, as it involves the same parties and raises the same issues as those in Nairobi Civil Appeal (Application) No.E804 of 2022 - Lucy Mumbi Mwangi - Versus - Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia



Wangui Shaw, being an Application for Stay of Execution of the Ruling of Honourable Muchelule J (formerly a Judge of the High Court) delivered on 28th September 2022 in High Court Succession Cause No. 758 of 2014 and the Appeal lodged at the Court of Appeal at Nairobi against the Ruling of Honourable Justice A.O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022 in High Court Succession Cause No.758 of 2014.

- b. That this Honorable Court be pleased to issue an order staying the proceedings in the instant suit pending the hearing and determination of the Appeal lodged at the Court of Appeal at Nairobi against the Ruling of Honourable Justice A. O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022 in High Court Succession Cause No. 758 of 2014.
 - c. That costs of this Application be awarded to the Defendant/Applicant.
4. The application by the Applicant was premised on the grounds, facts and testimony on the face of the application and further supported by the 15 paragraphed annexed affidavit of Lucy Mumbi Mwangi, the Defendant/Applicant herein. The Affiant averred that:-
- a. The provision of Section 6 of the *Civil Procedure Act*, Cap. 21 bars any court from proceeding with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding was pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed.
 - b. The issue of ownership and possession of the Suit Property known as Kwale/Galu Kinondo/1492 was directly and substantially in issue in “Nairobi High Court Succession Cause No. 758 of 2014 - In the matter of the Estate of Peter Rhule”, which was currently the subject of Appeal before the Court of Appeal at Nairobi.
 - c. As of 9th February, 2024, the CR - 12 form for the 1st Plaintiff showed that Virginia Wangui Ndegwa Shaw is a Director and Shareholder of the 1st Plaintiff, Philip Ransley John was the Secretary of the 1st Plaintiff and the Estate of late Philip John Ransley was a Shareholder of the 1st Plaintiff. Virginia Wangui Shaw, Philip John Ransley and the 2nd Plaintiff were all parties in the proceedings before the High Court of Kenya at Nairobi in Succession Cause No.758 of 2014 - In the matter of the Estate of Peter Rhule, which was currently the subject of Appeal before the Court of Appeal at Nairobi. (A copy of the CR - 12 form was produced and marked as Exhibit number “LMM – 1”).
 - d. Being aggrieved by the Ruling of Honourable Justice A. O. Muchelule (formerly a judge of the High Court) delivered on 28th September, 2022 in the succession cause, he filed a Notice of Appeal dated 1st October, 2022 and a letter requesting for typed proceedings dated 7th October, 2022. (Copies of the Ruling of the 28th September, 2022, the Notice of Appeal dated 7th October 2022 and the Letter Requesting for typed proceedings are produced and marked as Exhibits No. “LMM – 2”, “LMM – 3” and “LMM – 4” respectively.
 - e. The Affiant had since been issued with the typed proceedings together with the Certificate of Delay dated 24th January, 2025 in compliance with Rule 84 of the Court of Appeal Rules. The 60 days within which he ought to lodge her Appeal were yet to lapse since the period which the



registry used to type the proceedings was excluded from the computation to time to lodge an Appeal. (A copy of the Certificate of Delay was produced and marked as Exhibit “LMM – 5”.

- f. In the Ruling of Honourable Justice A. O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022 in the succession cause, it was held that the Defendant was not a wife of the Deceased and therefore not entitled to inherit the estate of the Deceased. The Defendant lodged at the Court of Appeal at Nairobi, the Notice of Motion Application dated 12th October 2022 seeking stay of execution of the Ruling of Honourable Justice A. O. Muchelule delivered on 28th September 2022, pending the hearing and determination of the intended appeal and was issued with the case number “Civil Appeal (Application) No. E804 of 2022 - Lucy Mumbi Mwangi - Versus - Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia Wangui Shaw”.
- g. One of the grounds for seeking the orders of Stay of Execution was that the Defendant lived with the deceased at their holiday home in Diani, Kwale County, being the Suit Property herein. The suit property constituted the Defendant’s matrimonial home and should therefore devolve to her as the lawful surviving wife of the Deceased. The Defendant stated that unless the orders of stay of execution issue, she was at the risk of being evicted from her matrimonial home - the Suit Property and thereby the intended Appeal would be rendered nugatory.
- h. The Notice of Motion Application was considered before a three judge bench consisting of Honourable Judge Hannah Okwengu, Honourable Judge Ali-Aroni and Honourable Judge J. Mativo, who delivered a Ruling on 27th September 2024 granting the application for stay under Rule 5 (2) (b) of the Court of Appeal Rules. A copy of the Ruling of 20th September 2024 and produced and marked as Exhibit “LMM – 6”.
- i. The orders of stay of Execution were still valid and in force since the Defendant’s Appeal was yet to be heard and determined by the Court of Appeal at Nairobi. Therefore, if this Honourable Court allowed this suit to proceed for hearing and determination, there was a likelihood of this Honourable Court and the Court of Appeal at Nairobi issuing conflicting decisions over the same subject matter.
- j. This Honourable Court ought to take notice that one of the prayers that the Plaintiffs seek in the instant suit is an order for eviction of the Defendant from the Suit Property. In the event that this Honourable Court proceeds to hear this suit and issues the said order, the same will be contradicting with the Orders of Stay of Execution issued by the Court of Appeal Judges through the Ruling delivered on 27th September 2024 in “Civil Appeal No. E804 of 2022 - Lucy Mumbi Mwangi - Versus - Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia Wangui Shaw”.
- k. This suit was a clear case of forum shopping and abuse of court process by the Plaintiffs, who are well aware of the Orders of the Court of Appeal staying the execution of the Ruling of Honourable Justice A. O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022, pending the hearing and determination of the Defendant’s intended appeal. In the event that this suit proceeds for hearing and determination on merit, despite the existence of the Ruling of the Court of Appeal delivered on 27th September 2024 and the intended appeal, there is likely to be duplication of reliefs or conflicting of reliefs from this Honourable Court and the Court of Appeal at Nairobi.



- l. In view of the foregoing, this Honourable Court was barred by operation of the law and in particular, Section 6 of the Civil Procedure Act and therefore lacked requisite jurisdiction to hear and determine this suit.

III. The Response by the 1st Plaintiff/Respondent

5. The 1st Plaintiff/Respondent, Virginia Wangui Shaw responded to the Application through a 8th paragraphed Replying Affidavit sworn on 5th March, 2025 where the Deponent averred that: -
 - a. The property was known as Kwale/ Galu Kinondo/1492 was never wholly part of the Estate of Peter Ruhle.
 - b. The property was owned by a Limited Company with distinct shareholding.
 - c. There had always been a plot to fraudulently transfer the land and at one time he had reconstruct a new green card.
 - d. There was no basis of stopping the main case from proceedings as ownership was not sub judice.
 - e. What was being contested was fraudulently transfer of the property now ownership.

IV. The Response by the 2nd Plaintiff/Respondent

6. The 2nd Plaintiff/Respondent, Onesmus Mwangi Muraguri, responded to the Application through a 14th paragraphed replying affidavit sworn on 25th February, 2025 where the Deponent averred that: -
 - a. They had been involved in cases involving the Estate of Peter Ruhle and the Succession Case.
 - b. The only issue in this case was Fraudulent Transfer of the property from Passenga Limited to Lucy Mumbi Mwangi.
 - c. The High Court in succession Case No. 758 of 2014 ruled that the Applicant herein was not a wife of Peter Ruhle and was not entitled to inherit from him.
 - d. The only issue to be canvassed in court of Appeal was whether the Applicant was wife of Late Peter Ruhle.
 - e. The issue in this case was whether the Applicant fraudulently transferred Parcel No. Kwale/ Galu Kinondo/ 1492 to herself from Passenga Limited.
 - f. An Official search done on 23rd February, 2023 indicated she was the Registered owner of the suit premises.
 - g. The Respondent had deponed in her affidavit that she had not transferred the property to herself.
 - h. The matter allegedly pending in the Court of Appeal were completely different from the ones that canvassed in this case.
 - i. The Respondent having conceded that she had not transferred the land to herself. It was not clear what she was defending in this case.
 - j. This case was not about conferring any proprietary rights but to curbe an illegality.



- k. Due to conflicting assertions by the Applicant that the Respondent fraudulently transferred the land and the Respondent assertion that she had not, this matter could only be clarified by the Land Registrar Kwale in substantial hearing.
- l. This application was an abuse of court process intended to delay this case.
- m. The application should be dismissed with costs.

V. Submissions

- 7. On diverse dates of 18th February, 2025 and 17th March, 2025 respectively while the parties were present in Court, they were directed to have the Notice of Motion application dated 17th February, 2025 be disposed of by way of written submissions and all the parties complied.
- 8. Unfortunately, by the time of penning down this Ruling, the Honourable Court had not been able to access the submissions from neither the Judiciary CTS portal nor the file. Pursuant to that, the Honourable Court was to render its ruling on its own merit on 10th June, 2025. However, due to unavoidable circumstances, it was eventually delivered on 24th September, 2025 accordingly.

VI. Analysis and Determination

- 9. 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, reasonable and Equitable decision, the Honourable Court has framed the following three (3) issues for determination. These were: -
 - a. Whether the Notice of Motion application dated 17th February, 2025 was merited?
 - b. Whether parties are entitled to the reliefs sought.
 - c. Who bears the costs of the Notice of Motion dated 17th February, 2025.

Issue No. a). Whether the Notice of Motion dated 17th February, 2025 was merited.

- 10. Under this Sub – heading, the Honourable Court will decipher on the substratum of the matter is whether the suit offends “the doctrine of Sub – Judice”. Principally, the legal concept of sub judice is one that bars a Court from trying a matter that is in one way or other before another Court of competent jurisdiction by way of a previously instituted suit as long as it is between the same parties canvassing it under the same title. In essence, if both Courts were to proceed with the matters on merit and determine them, without deference to the former, they would arrive at similar or different results on the same rights claimed by the same parties and there would be a duplication of the reliefs or a conflict of them, which would be a recipe for confusion and chaos in the legal system.
- 11. The sub judice rule is a rule of general application and is spelt out under the provision of Section 6 of the *Civil Procedure Act*, Cap. 21 holds as follows: -

“No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same time, where such suit or proceeding is pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed.



Explanation - The pendency of a suit in a foreign court shall not preclude a court from trying a suit in which the same matters or any of them are in issue in such suit in such foreign court”.

12. Further, in Black’s Law Dictionary 10th Edition at page 1652, the term ‘Sub - judice’ is defined thus:-
‘{Latin ‘under a judge’} Before the court or judge for determination.’
13. Similarly, the Concise Oxford English Dictionary 12th Edition at page 1436, defines ‘Sub - judice’ as follows;
‘under judicial consideration and therefore prohibited from public discussion elsewhere.’
14. Additionally, under the provision of Section 2 of the Civil Procedure Act, Cap. 21 the term ‘suit’ means all civil proceedings commenced in any manner prescribed and the same is fortified by the decision in the case of “Proto Energy Limited case (Supra)” which referred to the provision of Order 3 Rule (i) (ii) of the Civil Procedure Rules 2010. The provision of Section 19 of the Civil Procedure Act, cap. 21 reads:-

‘Every suit shall be instituted in such manner as may be prescribed by the rules.’

15. The purpose of this rule is to prevent courts of concurrent jurisdiction from entertaining parallel proceedings in respect of the same subject matter between the same parties. It is therefore necessary to establish that the issues in the former proceedings are also directly and/or substantially the same issues in the latter suit.
16. I wish to underscore here that numerous decisions have put the issue in perspective. In the case of “Kenya National Commission on Human Rights – Versus - Attorney General; Independent Electoral & Boundaries Commission & 16 Others (2002) eKLR”, the Supreme Court of Kenya held:-

“The purpose of sub - judice rule is to stop the filing of a multiplicity of suits between the same parties or those claiming under them over the same subject matter so as to avoid abuse of the court process and diminish the chances of courts, with competent jurisdiction, issuing conflicting decisions over the same subject matter-----When two or more cases are filed between the same parties on the same subject matter before courts with jurisdiction, the matter that is filed later ought to be stayed in order to await the determination to be made in the earlier suit. A party that seeks to invoke the doctrine of sub - judice must therefore establish that; there is more than one suit over the same subject matter; that one suit was instituted before the other; that both suits are pending before courts of competent jurisdiction and lastly; that the suits are between the same parties or their representatives”.

17. Furthermore, in the case of “Margaret Wachu Karuri – Versus - John Waweru Ribiro (2021) eKLR”, the court was faced with a similar question whether sub - judice can be raised as a preliminary point and held as follows:-

“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 probe evidence by ascertaining whether the issues raised in the instant suit are the same as the ones in the appeal aforesaid and further interrogate the prayers sought whether they are the same and relate to the same issues. On whether or not the same is sub - judice, facts have to be ascertained and a preliminary objection cannot be raised on disputed facts. Therefore, this



court holds and finds what has been raised by (the) Defendant/Objector does not amount to a preliminary objection, and thus the preliminary objection is not merited.”

18. Additionally, in the case of:- “Judicial Commission of Inquiry into Goldenberg Affair & 3 others – Versus - Kilach (2003) KLR 249 at 265/266”, it was noted:-

“.....the Respondent filed the notice of motion in the High Court and the same.....It would not be right for the two matters to be heard simultaneously by the High Court and the Commission.....”
19. The Applicant’s case was that was that the issue of ownership and possession of the Suit Property known as Kwale/Galu Kinondo/1492 is directly and substantially in issue in Nairobi High Court Succession Cause No. 758 of 2014 - In the matter of the Estate of Peter Rhule, which was currently the subject of Appeal before the Court of Appeal at Nairobi. As of 9th February, 2024, the CR 12 for the 1st Plaintiff showed that Virginia Wangui Ndegwa Shaw is a Director and Shareholder of the 1st Plaintiff, Philip Ransley John was the Secretary of the 1st Plaintiff and the Estate of late Philip John Ransley was a Shareholder of the 1st Plaintiff. Virginia Wangui Shaw. Philip John Ransley and the 2nd Plaintiff were all parties in the proceedings before the High Court of Kenya at Nairobi in Succession Cause No. 758 of 2014 - In the matter of the Estate of Peter Rhule, which was currently the subject of Appeal before the Court of Appeal at Nairobi.
20. Being aggrieved by the Ruling of Honourable Justice A. O. Muchelule (formerly a Judge of the High Court) delivered on 28th September, 2022 in the succession cause, he filed a Notice of Appeal dated 1st October, 2022 and a letter requesting for typed proceedings dated 7th October, 2022. The Affiant had since been issued with the typed proceedings together with the Certificate of Delay dated 24th January, 2025 in compliance with Rule 84 of the Court of Appeal Rules. The 60 days within which he ought to lodge her Appeal were yet to lapse since the period which the registry used to type the proceedings was excluded from the computation to time to lodge an Appeal.
21. In the Ruling of Honourable Justice A. O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022 in the succession cause, it was held that the Defendant was not a wife of the Deceased and therefore not entitled to inherit the estate of the Deceased. The Defendant lodged at the Court of Appeal at Nairobi, the Notice of Motion Application dated 12th October 2022 seeking stay of execution of the Ruling of Honourable Justice A. O. Muchelule delivered on 28th September 2022, pending the hearing and determination of the intended appeal and was issued with the case number “Civil Appeal (Application) No. E804 of 2022 - Lucy Mumbi Mwangi – Versus - Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia Wangui Shaw.
22. This Honourable Court ought to take notice that one of the prayers that the Plaintiffs seek in the instant suit is an order for eviction of the Defendant from the Suit Property. In the event that this Honourable Court proceeds to hear this suit and issues the said order, the same will be contradicting with the Orders of Stay of Execution issued by the Court of Appeal Judges through the Ruling delivered on 27th September 2024 in “Civil Appeal No. E804 of 2022 - Lucy Mumbi Mwangi - Versus - Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia Wangui Shaw”.
23. To avoid a situation such as the one described above, Parliament in its wisdom enacted the provisions to cater for cases where overzealous parties might run to and from in the corridors of justice so as to mine for the best result in their estimation. In that regard, the provision of Section 5 of the *Civil Procedure Act* lays the basis for the operation of Section 6 of the *Civil Procedure Act* by stating that any court can



try any suit of a civil nature as long as it has jurisdiction, except the suits in which that act or process is either expressly or impliedly barred. For this reason, this court having found that it is barred by the operation of law and in particular, Section 6 of the Civil Procedure Act, it lacks the requisite authority to hear and determine this suit.

24. In the case of “David Ndi & others – Versus - Attorney General & Others 2021 eKLR”, a bench of five Judges “inter alia stated;
“The rationale behind this provision (Section 6 of the Civil Procedure Act) is that it is vexatious and oppressive for a claimant to sue concurrently in two courts. Where there are two courts faced with substantially the same question or issue, that question or issue should be determined in only one of those courts, and the court will....”
25. I also wish to add that the practice of filing new and separate cases despite the existence of a similar case relating to the same subject matter amounts to an abuse of the court process. Usually the Court frown on this practice since it leads to unnecessary backlog of cases and a waste of the precious judicial time.
26. In the case of “Muchanga Investments Limited – Versus - Safaris Unlimited (Africa) Ltd & 2 others Civil Appeal No. 25 of 2002 (2009) eKLR 229”, the court of appeal stated as follows:-
“The term abuse of court process has the same meaning as abuse of judicial process. The employment of judicial process is regarded as an abuse when a party uses the judicial process to the irritation and annoyance of his opponent and the efficient and effective administration of justice. It is a term generally applied to a proceeding, which is wanting in bona - fides and frivolous, vexatious or oppressive’.
27. The term “abuse of judicial process” refers to the initiation of a legal proceeding that is lacking in bona fides (good faith) and is inherently frivolous, vexatious, or oppressive. This includes the improper use of legal procedure, such as when a party engages in multiplicity of suits by litigating the same matter through two parallel court processes. This tactic constitutes a gamble, a strategic game of chance designed to manipulate the judicial system for an advantage.
28. The point to underscore is that a litigant has no right to pursue “paripasu” more than once processes which will have the same effect at the same time or at different times with a view of obtaining victory in one of the process or in both. I have in previous decisions stated that litigation is not a game of chess where players outsmart themselves by dexterity of purpose and traps. Litigation is a contest by judicial process where the parties place on the table of justice their different position clearly, plainly and without tricks.
29. Multiplicity of actions on the same matter between the same parties even where there exists a right to bring the action is regarded as an abuse. The abuse lies in the multiplicity and manner of the exercise of the right rather than exercise of right per se. The abuse consists in the intention, purpose and aim of person exercising the right, to harass, irritate, and annoy the adversary and interfere with the administration of justice.

Issue No. b). Whether the parties are entitled to the relief sought

30. Under this sub – heading, the Honourable Court while applying the above well spelt out legal principles will endeavor to ascertain whether the parties are entitled to the reliefs sought. In the instant case, and from the very onset, I do not see elements of abuse of process of court as stated in the case of “Muchanga Investments Limited – Versus - Safaris Unlimited (Africa) (supra)”. Accordingly, I find that the issues in this suit have no nexus with “Nairobi Civil Appeal (Application) No.E804 of



2022 - Lucy Mumbi Mwangi versus Paula Maria Rhule, Christopher Handschuh, Josephine Wambui Kamau, Philip John Ransley and Virginia Wangui Shaw”, being an Application for Stay of Execution of the Ruling of Honourable Muchelule J (formerly a Judge of the High Court) delivered on 28th September 2022 in High Court Succession Cause No. 758 of 2014 and the Appeal lodged at the Court of Appeal at Nairobi against the Ruling of Honourable Justice A.O. Muchelule (formerly a Judge of the High Court) delivered on 28th September 2022 in High Court Succession Cause No.758 of 2014.

31. The issue in contention in the matter before high court touches on the succession of the property while in this particular suit in a court that is vested in the disposition of land the same touch on ownership and fraud which this court is well suited to handle. I concur with the Plaintiffs, the issue in this suit is the fraudulent transfer of Parcel No. Kwale/Galu Kinondo/1492 to herself from Passenga Limited. There is no basis of stopping the main case from proceedings as the ownership is not sub - judice. If anything this application should have been filed in the High Court as ownership of the land and its disposition takes precedence over its distribution especially where there are third parties involved. Clearly, the applicants are not entitled to the reliefs sought herein.
32. Therefore, in view of the foregoing, I do proceed to dismiss the application with costs to the Plaintiffs/ Respondents.

Issue No. c. Who bears the Costs of the Notice of Motion application dated 17th February, 2025

33. 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 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. 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.
34. In the present case, the Plaintiffs/Respondents shall have the costs as the Defendant/Applicant has failed to prove the merits of her application.

VII. Conclusion and Disposition.

35. Ultimately in view of the foregoing detailed and expansive analysis to the rather omnibus application, the Court arrives at the following decision and make below orders:-
 - a. That the Notice of Motion dated 17th February, 2025 be and is hereby found to lack merit and the same is dismissed with costs.
 - b. That for expediency sake there be Pre – Trial Conference on 17th November, 2025 in accordance with the provision of Order 11 of the Civil Procedure Rules, 2010 on case management whatsoever. There shall be a hearing on 4th March, 2026 by physical means.
 - c. That the costs of the Notice of Motion application dated 17th February, 2025 to be awarded to the Plaintiff/Respondent herein.

It is so ordered accordingly.



RULING DELIVERED THROUGH MICROSOFT TEAM VIRTUAL MEANS, SIGNED AND DATED AT KWALE THIS 24TH DAY OF SEPTEMBER 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. Disii, the Court Assistant;
- b. Mr. Muraguri Advocate for the Plaintiff/Respondent; and
- c. M/s. Amwama Advocates holding brief for Mr. Kiprop Advocate for the Defendant/Applicant.

