



Jesus Celebration Ministry International Registered Trustee (Suing Through Its Registered Trustee George Omondi Makokha) & another v Mbai & 9 others (Environment and Land Appeal E048 of 2024) [2025] KEELC 6984 (KLR) (13 October 2025) (Judgment)

Neutral citation: [2025] KEELC 6984 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND APPEAL E048 OF 2024
BM EBOSO, J
OCTOBER 13, 2025**

BETWEEN

**JESUS CELEBRATION MINISTRY INTERNATIONAL REGISTERED TRUSTEE (SUING THROUGH ITS REGISTERED TRUSTEE GEORGE OMONDI MAKOKHA) 1ST APPELLANT
GEORGE OMONDI MAKOKHA 2ND APPELLANT**

AND

**WILFRED MBAI 1ST RESPONDENT
JACOB KINYUA 2ND RESPONDENT
JOSHUA OGUTU 3RD RESPONDENT
RAEL MUKONO 4TH RESPONDENT
JOSEPH MUTUA 5TH RESPONDENT
MUUNDA MWANGANGI 6TH RESPONDENT
PATRICK GITONGA 7TH RESPONDENT
ERICK MWANDAWIRO 8TH RESPONDENT
THE LAND REGISTRAR-MERU NORTH 9TH RESPONDENT
THE HON. ATTORNEY GENERAL 10TH RESPONDENT**

(An appeal against the Ruling of the Chief Magistrate Court at Maua (Hon. F. Kombo - CM) rendered on 18/4/2024 in Maua CMC E & L Case No. E006 of 2023)



JUDGMENT

Introduction

1. This appeal challenges the ruling rendered by the Chief Magistrate Court at Maua [Hon F. Kombo - CM] on 18/4/2024 in Maua CMC E & L Case No. E006 of 2023. The impugned ruling was rendered on a preliminary objection dated 18/10/2023 in which the 9th and 10th respondents urged the lower court to strike out the suit on the grounds that: (i) the lower court lacked jurisdiction to entertain the case in view of Section 86(1) of the Land Registration Act; (ii) the suit offended the express provisions of rule 8 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013; and (iii) the suit offended the express provisions of Section 8(2) of the Magistrates' Courts Act. The lower court upheld the preliminary objection and struck out the suit. One of the key issues that fell for determination by the lower court was whether it had jurisdiction to entertain the dispute that was before it. That is one of the key issues that fall for determination in this first appeal. Before I analyse and dispose the issues, I will briefly outline the background to the appeal and the parties' respective submissions in the appeal. The suit land will be described in this judgment simply as "parcel number 4015" or "the suit land".

Background

2. Through M/s Ngunjiri Michael & Co Advocates, George Omondi Makokha drew a plaint dated 13/1/2023 in which he designated himself as the 2nd plaintiff and designated Jesus Celebration Ministry International Registered Trustees (Suing through its registered trustee George Omondi Makokha) as the 1st plaintiff. He described the 1st plaintiff [the 1st appellant in this appeal] as a "society established under the Trustees (Perpetual Succession) Act [sic]." The certificate of registration which he relied on, however, was issued by the Assistant Registrar of Societies under Section 10 of the Societies Act and rule 4 of the Societies Rules. The certificate was dated 20/7/2007. There was no evidence of any certificate relating to the named 1st plaintiff [1st appellant] nor issued under the Trustees (Perpetual Succession) Act. Because the issue relating to the legal status and capacity of the 1st appellant was not canvassed in this appeal, I will leave it at that.
3. Through the plaint, the two appellants contended that the 2nd appellant was a bishop, adding that prior to 20/7/2007 he operated a church called Great Gospel Commission Ministries International. The said church was not registered under the "Trustees (Perpetual Succession) Act" [sic] but he was in the process of having it registered.
4. They added that on 17/1/2007, he purchased land parcel number 4015 within Athiru Ruujine Ndoleli Adjudication Section from one Silas Aron Mputhia. He caused the land to be registered in the adjudication register in the name of Great Gospel Commission Ministries International. While the 2nd appellant was working in "other churches under his ministry", the 1st - 8th respondents continued to spread the gospel on land parcel number 4015. The 2nd appellant was subsequently advised by the Registrar of Societies that another church existed under the name Great Gospel Commission Ministries International. The 2nd appellant then caused his ministry to be registered on 20/7/2007 under the name Jesus Celebration Ministry International.
5. They contended that the 2nd appellant subsequently embarked on the process of changing ownership of parcel number 4015 from Great Gospel Commission Ministries International to Jesus Celebration Ministry International. Because the adjudication register had already been sent to Nairobi for tilting, the title came out in the name of Great Gospel Commission Ministries International. The 2nd



- appellant pursued the matter and caused the Land Registrar to change ownership of the land to Jesus Celebration Ministry International in 2020.
6. They stated that in 2021, the 2nd appellant realized that there were two titles relating to land parcel number 4015. He raised a complaint with the Land Registrar. The Land Registrar convened and conducted a hearing on 24/11/2021 and 26/1/2022 in an effort to resolve the issue. The 2nd appellant presented necessary evidence to the Land Registrar. During the hearing before the Land Registrar, the 2nd appellant realized that the 1st – 8th respondents were purporting to run a self-help group called Great Gospel Self-Help Group that was independent from the 1st appellant and they purported to be the owner of parcel number 4015. On 23/2/2022, the Land Registrar rendered findings and a ruling in which he upheld the title of the self-help group and directed cancellation of the 1st appellant’s title.
 7. The appellants termed the decision of the Land Registrar fraudulent, illegal and ultra vires. They itemized various particulars of fraud and illegality. They prayed for the following reliefs from the Magistrate Court:
 - (i) a declaration that the 1st appellant was the owner of land parcel number Igembe/Ndoleli/Athiru Ruujine/4015 measuring 1.12 hectares;
 - (ii) an order cancelling the title deed issued to Great Gospel Commission Ministries for the suit land;
 - (iii) an order directing the 1st to 8th respondents to vacate the suit land and in default they be evicted;
 - (iv) an order of permanent injunction restraining the 1st – 8th respondents against building on, depositing building materials on, demolishing, plucking miraa from, selling, leasing, transferring, holding meetings, worshipping and in any way whatsoever interfering with the appellants’ peaceful user, occupation and enjoyment of the suit land; and
 - (v) costs of the suit.
 8. The 1st – 8th respondents filed a statement of defence dated 19/9/2023 in which they contested the appellants’ claim. They averred that the suit land was purchased through contributions by members of Murera Great Gospel Commission Ministries, adding that they were running Great Gospel Commission Ministry from the suit land. They denied change of their ministry’s name. They stated that their title was the first one to be issued, adding that it was wrong for the appellants to procure a parallel title while their title was in existence. They urged the lower court to dismiss the appellants’ suit.
 9. The 9th and 10th respondents filed a statement of defence dated 18/10/2023 in which they contested the appellants’ claim. They averred that in the relevant adjudication register, the suit land was recorded in the name of the County Government of Meru and reserved for Great Commission Ministries Church, emphasizing that the suit land was not reserved for Great Gospel Commission Ministries International as alleged by the appellants. They added that in 2021, a title relating to the suit land was issued to Great Gospel Commission Ministries Church.
 10. The 9th and 10th respondents added that, following a complaint by the 2nd appellant, the Land Registrar convened and conducted a hearing whereafter she made findings and rendered a ruling on the dispute. Citing Section 86 of the [Land Registration Act](#), the 9th and 10 respondents added that, being dissatisfied with the decision of the Land Registrar, the appellant filed a judicial review case in the High Court at Meru, to wit, Meru HC JR Case No. 1 of 2022. The appellants subsequently withdrew the



judicial review case. The 9th and 10th respondents contested the jurisdiction of the magistrate court to entertain the case and urged the court to dismiss the suit.

11. In addition to the statement of defence, the 9th and 10th respondents filed a notice of preliminary objection dated 18/10/2023, inviting the Magistrate Court to strike out the suit on the grounds that: (i) the magistrate court lacked jurisdiction entertain the claim in view of Section 86(1) of the [Land Registration Act](#); (ii) the suit offended the express provisions of rule 8 of [the Constitution](#) of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013; and (iii) the suit offended the express provisions of Section 8(2) of the Magistrate Court Act.
12. The preliminary objection was canvassed through written submissions and was subsequently disposed through the ruling that is the subject of this appeal. The lower court held that through the suit, the appellants were challenging the quasi-judicial decision of the Land Registrar dated 23/2/2022, adding that the said decision had been made after a hearing pursuant to the powers granted to the Land Registrar as a quasi judicial entity under the provisions of the [Land Registration Act](#). The lower court further found that hearing and determination of the appellants' case would amount to the magistrate court exercising judicial review jurisdiction which it did not have. The lower court struck out the case for want of jurisdiction.

Appeal

13. Aggrieved by the findings and decree of the trial court, the appellants brought this appeal, advancing the following eight (8) grounds of appeal;
 - i. That the Learned Trial Magistrate erred in law and in fact in failing to appreciate that the reliefs and/or some of the reliefs sought in the appellants' pleadings cannot be granted in judicial review proceedings and can only be granted in a civil suit, hence arriving at a wrongful decision.
 - ii. That the Learned Trial Magistrate erred in law and in fact in failing to appreciate that the issues raised in the appellants' pleadings could only be heard and determined in a civil suit, and not in judicial review application/proceedings hence arriving at a wrongful decision.
 - iii. That the Learned Trial Magistrate erred in law and in fact in failing to take into account the evidence, authorities and submissions of the appellants, hence arriving at a wrongful decision.
 - iv. That the Learned Trial Magistrate erred in law and in fact in failing to appreciate that the issues raised in the pleadings need evidence to be tendered and examination of witnesses hence arriving at a wrongful decision.
 - v. That the Learned Trial Magistrate erred in law in failing to appreciate that Section 86 of [Land Registration Act](#) does not envision a judicial review per se, hence arriving at a wrongful decision.
 - vi. That the Learned Trial Magistrate erred in law in misinterpreting the definition of court in Section 2 of the [Land Registration Act](#) and holding that the court means the Environment and Land Court and not the Magistrate Court, hence arriving at a wrongful decision.
 - vii. That the Learned Trial Magistrate erred in law in failing to appreciate that the Magistrate's Court can give an opinion that is envisioned in Section 86 of the [Land Registration Act](#), hence arriving at a wrongful decision.
 - viii. That the Learned Trial Magistrate decision is bad in law.



14. The appellants urged this court to allow the appeal and set aside the impugned ruling in its entirety and decree that the 9th & 10th respondents' notice of preliminary objection dated 18/10/2023 be dismissed/struck out with costs to the appellants.

Appellants' Submissions

15. The appellants filed written submissions dated 22/4/2025 through M/s Ngunjiri Michael & Co Advocates. Counsel for the appellants identified the following as the issues that fell for determination in the appeal: (i) Whether the preliminary objection met the legal threshold; (ii) Whether the issues raised in the pleadings by the appellant could be heard through a judicial review; and (iii) Whether the opinion stated in Section 86 of the [Land Registration Act](#) is a decision emanating from a judicial review or a decision emanating from a normal environment and land case.
16. Citing the pronouncement in *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd* (19690 EA 696, counsel submitted that the preliminary objection by the 9th and 10th respondents did not raise points of law. Counsel added that the 9th and 10th respondents did not demonstrate how Section 86(1) of the [Land Registration Act](#) limited the jurisdiction of the Magistrate Court to hear disputes challenging the Land Registrar's mandate.
17. Counsel argued that the appellants pleaded that the decision of the Land Registrar was fraudulent and that the Land Registrar had colluded with the 1st – 8th respondents to have the appellants' title deed cancelled, adding that the Land Registrar did not consider all the facts before making her decision. Counsel contended that the issues raised by the appellants in their pleadings challenged the merits of the decision of the Land Registrar, emphasizing that the appellants were not challenging the procedure adopted by the Land Registrar. Counsel argued that a judicial review case could not be used to challenge the merits of the decision of the Land Registrar.
18. Counsel further submitted that a decision made by the Land Registrar in exercise of her powers under Section 86 of the [Land Registration Act](#) can be challenged through a normal case in a normal environment and land court. Counsel urged the court to allow the appeal.

1st – 8th Respondents' Submissions

19. The 1st – 8th respondents filed written submissions dated 22/4/2025 through M/s Mutembei & Kimathi Advocates. Counsel for the 1st – 8th respondents submitted that the main issue in the appeal was whether the lower court acted in a fair and just manner in allowing the preliminary objection.
20. Counsel submitted that the appellants' suit was based on the claim that the Land Registrar acted in excess of her mandate or/jurisdiction when she conducted a hearing on 24/11/2021 and a subsequent one on 26/1/2022 to determine the issues raised by the 2nd appellant. Counsel further submitted that the appellants contended that the Land Registrar failed to follow a fair decision making process while conducting the hearing and failed to take relevant facts into consideration while rendering his determination.
21. Counsel argued that the main issue in the suit was whether the actions of the Land Registrar remained within her mandate or whether she acted outside her statutory mandate. Counsel relied on the case of *Civil Service Union v Minister for the Civil service* (1985)AC, *Republic v Cabinet Secretary, Ministry of Agriculture, livestock & Fisheries; Cabinet Secretary, Ministry of Industry, Trade & Co-operatives Tanners Association of Kenya*(Suing through its Chairman Robert Njoka exparte applicant.
22. Counsel further relied on Article 47(1) (2) of [the Constitution](#) and Sections 4(1), 2, 3 and 7(1), 2 (a) (c) and (f) of the [Fair Administrative Action Act](#). Counsel argued that the grievances raised by the



appellants were premised on the decision rendered by the Land Registrar, adding that, if the lower court allowed the suit to proceed, it was going to be tantamount to undertaking a judicial review of the Land Registrar's decision, which the court lacked the jurisdiction to undertake.

Submissions by the Attorney General

PARA 23.

The Land Registrar and the Hon. Attorney General were named as the 9th and 10th respondents in the memorandum of appeal. They filed written submissions dated 15/4/2025 through Ms E. Wairimu, Senior State Counsel. She submitted that the key issue that fell for determination in the appeal was whether the trial court properly arrived at the decision that it lacked the jurisdiction to hear and determine the suit.

24. Counsel argued that there was no contest that the appellants' grievances emanated from the decision made by the Land Registrar on 23/2/2022 following the quasi-judicial hearings conducted by her on 24/11/2021 and 26/1/2022 under the provisions of the *Land Registration Act*, which decision went against the appellants. Counsel pointed out that it was within the above context that the appellants alleged that the Land Registrar acted in excess of her legal authority (*ultra vires*), illegally and fraudulently; adding that the appellants also pleaded that the Land Registrar did not consider all the facts before making her decision. Counsel argued that, as framed, the appellants' case amounted to a plea for judicial review of the decision of the Land Registrar. Citing Section 7 of the *Fair Administrative Action Act* and Section 86(1) of the *Land Registration Act*, counsel submitted that the Magistrate Court did not have jurisdiction to undertake a judicial review of the quasi-judicial decision of the Land Registrar.
25. In addition, the Attorney General urged this court to dismiss the appeal on the ground that the record of appeal was fatally defective because it did not contain a certified copy of the order appealed against. Citing Order 42 rule 13(4) of the Civil Procedure Rules and the High Court decision in *Nancy Wambui Ndungu & another v Joseph Kahukia Wakimani & another (Suing as Administrator of the Estate of Jim Kimani (Deceased) (2020) eKLR*, counsel submitted that omission to include a certified copy of the impugned order rendered the appeal fatally defective and urged the court to strike out the appeal.

Analysis and Determination

26. The court has read and considered the original record of the lower court; the record of appeal filed by the appellants; and the parties' respective submissions. The court has also considered the relevant legal frameworks and jurisprudence. The following are the three key issues that fall for determination in this first appeal:
 - (i) Whether this appeal should be struck out due to the alleged omission of a certified copy of the impugned order in the record of appeal;
 - (ii) Whether the points raised in the preliminary objection dated 18/10/2023 met the threshold of a preliminary objection; and
 - (iii) Whether the trial court erred in upholding the preliminary objection. Before I sequentially analyse and dispose the three issues, I will outline the principle that guides this court when exercising appellate jurisdiction.



27. The task of a first appellate court was summarized by the Court of Appeal in the case of Susan Munyi v Keshar Shiani (2013) eKLR as follows:

“As a first appellate court our duty of course is to approach the whole of the evidence on record from a fresh perspective and with an open mind. We are to analyze, evaluate, assess, weigh, interrogate and scrutinize all of the evidence and arrive at our own independent conclusions.”

28. The principle was similarly outlined in Abok James Odera t/a A J Odera & Associates v John Patrick Machira t/a Machira & Co Advocates [2013] eKLR as follows:

“This being a first appeal, we are reminded of our primary role as a first appellate court, namely, to re-evaluate, re-assess and re-analyse the extracts on the record and then determine whether the conclusions reached by the learned trial judge are to stand or not and give reasons either way.”

29. Should this appeal be struck out for the alleged omission of a certified copy of the impugned order in the record of appeal? The issue of omission of a certified copy of the impugned order in the record of appeal was raised in the written submissions filed by the Senior State Counsel on behalf of the Land Registrar and the Hon. Attorney General. The issue had not been raised prior to that.

30. This appeal came up for directions on 19/2/2025. The two counsel representing the respondents urged the court to admit the appeal. No formal application was subsequently filed raising the issue of non-inclusion of a certified copy of the impugned order. No prior application was made inviting the court to pronounce itself on the issue. The issue was raised in the final written submissions of the 9th and 10th respondents. Clearly, this was an ambush; it was an ambush because the appellants were not given the opportunity to respond to the issue or to remedy the alleged omission.

31. Secondly, the subject of this appeal is the ruling dated 18/4/2024. A certified copy of that ruling appears at pages 100 – 105 of the original record of appeal. What may not be in the original record of appeal is a certified copy of the order extracted out of the impugned ruling. An extract of the order is merely a lean summary of the impugned ruling. When a certified copy of the full ruling is included in the record of appeal, the requirements of Order 42 rule 13(4) (f) in relation to a certified copy of an impugned order is, in my view, sufficiently satisfied.

32. Third, initially the lower court extracted a decree out of the ruling dated 18/4/2024. This court directed the lower court to extract an order out of the ruling. Once the order was extracted and furnished to the parties, the appellants filed a supplementary record of appeal dated 7/5/2025 containing a certified copy of the order extracted from the impugned ruling. The supplementary record forms part of the record of appeal in this appeal.

33. Lastly, unlike the Supreme Court and the Court of Appeal which rely solely on the filed record of appeal, a third tier superior court exercises appellate jurisdiction on the basis of both the original record of the lower court and the record of appeal filed in the appeal before it. In this regard, this court is seized of both the original record of the lower court and the record of appeal filed by the appellants in this appeal. The court has perused both records. The original record contains the original impugned ruling. The initial record filed by the appellants contains a certified copy of the full ruling. The supplementary record of appeal dated 7/5/2025 contains a certified copy of the order extracted out of the ruling. The order was extracted after this court directed the lower court to extract it. Given the above circumstances, I do not think there is a proper basis for striking out this appeal in limine at this point. The court will consider the merits of the appeal and dispose it on merits.



34. Did the points raised in the preliminary objection dated 18/10/2023 meet the threshold of a preliminary objection? The threshold of a preliminary objection was outlined by the Court of Appeal for East Africa in *Mukisa Biscuits Manufacturing Co Ltd v West End Distributors Ltd* (1969) EA 696. Law JA defined a preliminary objection thus:

“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.”

35. On his part, Newbold P defined a preliminary objection as follows:

“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 has to be ascertained or if what is sought is the exercise of judicial discretion.”

36. The preliminary objection dated 18/10/2023 raised the following verbatim points

1. This court lacks jurisdiction in view of Section 86(1) of the *Land Registration Act* 2012.
2. The suit offends the express provisions of rule 8 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013.
3. The suit offends the express provisions of Section 8(2) of the Magistrates Act.

37. The preliminary objection was subsequently canvassed in the lower court through written submissions dated 11/12/2023. The gist of the preliminary objection was that, a perusal of the appellants’ pleadings revealed that the appellants were challenging the quasi-judicial decision made by the Land Registrar on 23/2/2022 in exercise of her statutory mandate. The objectors contended that the Magistrate Court did not have jurisdiction to judicially review the quasi-judicial ruling rendered by the Land Registrar on 23/2/2022. The appellants had placed before the lower court the said ruling by the Land Registrar as part of their trial bundle. No evidence was required for the purpose of ascertaining whether or not the Magistrate Court had jurisdiction to entertain the suit. The focal reference materials were the pleadings, the trial bundle placed before the lower court by the appellants, and the legal frameworks cited. Taking the above into account, the court finds that the notice of preliminary objection dated 18/10/2023 fully met the threshold of a preliminary objection as defined in *Mukisa Biscuit Case* [Supra]

38. Did the trial court err in upholding the preliminary objection? The crux of the preliminary objection was that the appellants were inviting the Magistrate Court to exercise judicial review jurisdiction and quash the quasi-judicial ruling of the Land Registrar dated 23/2/2022. The lower court upheld the preliminary objection. The appellants are aggrieved and contend that the lower should have rejected the preliminary objection.

39. The appellants argue that they were not challenging the procedure employed by the Land Registrar in arriving at the decision dated 23/2/2022. They contend that they were challenging the merits of the said decision. It is their case that the magistrate court had jurisdiction to review the merits of the said decision. On their part, the respondents contend that the suit giving rise to this appeal challenged the quasi-judicial decision/ruling of the Land Registrar. They cite the averments made in the plaint by the



appellants to the effect that the Land Registrar acted illegally and ultra vires her statutory powers. They argue that the subordinate court did not have jurisdiction to entertain the claim as pleaded. The court has reflected on the above rival positions in the context of the dispute.

40. In their own pleadings, the appellants contended that the suit land was recorded in the adjudication register under the name of Great Gospel Commission Ministries International. It does, however, emerge from the materials placed before the lower court that upon finalization of the land adjudication process, a land register was opened on 24/5/2017 and the suit land was registered in the name of the County Government of Meru and was expressly reserved for Great Gospel Commission Ministries Church. On 28/4/2021, the land was transferred to Great Gospel Commission Ministries Church (Registered under the Ministry of East African Community).
41. The appellants contended that they approached the Land Registrar with a new name (name change) and asked the Land Registrar to effect a change of particulars of ownership of the suit land on the basis of the name change. Change of particulars of ownership on the basis of a name change is a statutory jurisdiction vested in the Land Registrar under Section 79(3) of the [Land Registration Act](#). The appellants contended that they thought the Land Registrar had effected a change of particulars of ownership on the basis of the name change.
42. It was the appellants' case that when they discovered that the Land Registrar had not effected the change of particulars on the basis of the name change, they lodged a complaint to the Land Registrar requiring the Land Registrar to effect the changes on the basis of the name change. The Land Registrar invited the concerned parties to a hearing and conducted the hearing. She heard the affected parties and rendered the following verbatim findings and ruling:

“Findings

The land in question Ndoleli/Athiru Ruujine/4015 was purchased through a fundraising. The fellowship which was fellowshipping inside the park, specifically at the canteen came up with the idea of purchasing land where they could build a church (a place to worship without any inhibition). The bone of contention is that there are two title deeds with different names. One is in the name of the Great Gospel Commission Ministries Church and the other one is in the name of Jesus Celebration Ministries International.

The records in the land's office i.e Adjudication Register (which is the basic document from where the title deed is issued) reads County Government Reserved for Great Gospel Commission Ministries Church.

Bishop Makokha changed the name of the ministry from Great Gospel Commission Ministry Church to Jesus Celebration Ministry International. The members were not aware of the change hence the bone of contention. Since the land is still under the same church the only difference is the name and how it was changed.

Ruling

My ruling is that the title in the name of Jesus Celebration Ministry International be returned and cancelled and the one in the name of Great Gospel Commission Church be retained because it is the one which confirms [sic] with records held in the lands office.

Right of appeal to the high court with [sic] a period of 30 days from the date herein to the High Court.

Issued this day 23rd day of February 2022.”



43. Having procured the above findings and ruling in quasi-judicial proceedings conducted by the Land Registrar under Section 79(3) of the *Land Registration Act*, the appellants decided to challenge the above findings and ruling in a normal civil [land case] in a subordinate court, contending that the Land Registrar acted, inter alia, illegally and ultra vires. Clearly, the appellants’ suit violated the mandatory requirements of Section 9(1) of the *Fair Administrative Action Act* which provides as follows:
- “Subject to subsection (2), a person who is aggrieved by an administrative action may, without unreasonable delay, apply for judicial review of any administrative action to the High Court or to a subordinate court upon which original jurisdiction is conferred pursuant to Article 22(3) of *the Constitution*.”
44. The appellants have not demonstrated that the Chief Justice had conferred upon the subordinate court jurisdiction to hear judicial review claims.
45. Article 22(3) of *the Constitution* empowers the Chief Justice to appoint certain magistrates to hear claims relating to violation of certain categories of rights within the Bill of Rights. The prevailing operational and jurisdictional frameworks on litigations relating to the Bill of Rights are Articles 22, 23, 162(2) and 165 of Constitution and rules 2 and 4(1) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules. The frameworks vest primary jurisdiction over human rights claims in the High Court. The “High Court” is defined in the Rules to include courts of equal status with the High Court but does not include subordinate courts. In any event, the appellants did not invoke the Bill of Rights.
46. Whichever way one looks at the suit which the appellants lodged in the subordinate court to challenge the quasi-judicial ruling which they had procured from the Land Registrar, the suit was incompetent for want of jurisdiction on part of the subordinate court. Having allowed the Land Registrar to sit as a quasi-judicial organ in a dispute she had authored through issuance of two parallel titles relating to the same parcel of land, the suit they presented to the Magistrate Court was an invitation to the Magistrate Court to exercise judicial review jurisdiction over the decision dated 23/2/2022. That jurisdiction is vested in the Environment and Land Court and is exercisable through judicial review proceedings or through a constitutional petition. For the above reasons, this first appellate court entirely agrees with the finding of the subordinate court on the issue of jurisdiction.
47. In light of the above findings on the substantive issues in this appeal, the appeal fails. The appeal is rejected and dismissed for lack of merit. In tandem with the general principle in Section 27 of the *Civil Procedure Act* - that costs follow the event, the appellants shall bear costs of the appeal.

DATED, SIGNED AND DELIVERED AT MERU THIS 13TH DAY OF OCTOBER, 2025.

B M EBOSO [MR]

ELC JUDGE

