



**Kweyu v Chore & another (Environment and Land Case
4 of 2019) [2025] KEELC 7304 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7304 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA
ENVIRONMENT AND LAND CASE 4 OF 2019
A NYUKURI, J
OCTOBER 15, 2025**

BETWEEN

MARY AWINO KWEYU PLAINTIFF

AND

LAWRENCE MMATA CHORE 1ST DEFENDANT

MELISA MUHONJA MMATA 2ND DEFENDANT

RULING

Introduction

1. Before court is a notice of motion dated 21st, July 2025 filed by the firm of Kasamani & Associates Advocates and brought under the provisions of Order 9 rule 9 of the Civil Procedure Rules and Article 15 a (2) (d) of *the Constitution* (sic) seeking leave for the firm of Kasamani & Associates Advocates to come on record for the 1st defendant in place of Oscar Wachilonga & Associates Advocates.
2. The application is predicated on the affidavit sworn by Vincent Mukoya Kasamani, counsel practicing in the firm of Kasamani & Associates Advocates sworn on 21st July 2025. The applicant's case is that he has been instructed to represent the 1st defendant as service effected on the defendants was improper as they were served by registered post. That the 1st defendant faces a debt of Kshs. 70, 645, 642/= which cannot be paid without a full trial. That the 1st defendant's interests will not be properly articulated unless he is allowed to change advocates. He attached a copy of a certificate of registration of business name of Kasamani & Associates advocates.
3. The application was opposed. Mary Awino Kweyu filed a replying affidavit dated 12th September 2025. She stated that the instant application is similar to that of 7th October 2024 which sought the same prayer and was dismissed by this court in its ruling of 30th June 2025. That the application herein is an abuse of the court process.



4. In support of his application, the applicant filed submissions dated 1st December 2025, which the court has duly considered.

Analysis and determination.

5. The court has carefully considered the application, response thereto and submissions. The single issue that arises for this court's determination, is whether the applicant herein deserves the orders sought.
6. On 7th October 2024, the applicant herein filed a similar application dated even date asking for the same prayer and predicated on the same legal provisions. The grounds relied upon were also the same. That application was dismissed on 30th June 2025. Section 7 of the *Civil Procedure Act* bars this court from trying an issue or suit which is already determined by a competent court with finality and on merit in a former suit or proceedings involving the same parties or their privies. As this court has already pronounced itself on a similar application, I hold that the application herein is res judicata and an abuse of the court process. Therefore, the application dated 21st July 2025 is hereby dismissed with costs to the plaintiff/respondent.
7. It is so ordered.

DATED, SIGNED AND DELIVERED AT KAKAMEGA IN OPEN COURT/VIRTUALLY THROUGH MICROSOFT TEAMS VIDEO CONFERENCING PLATFORM THIS 15TH DAY OF OCTOBER, 2025

A. NYUKURI

JUDGE

In the presence of;

Mr. Mukoya for the applicant

No appearance for the respondent.

Court Assistant: Delphine

