



Republic v Deputy County Commissioner Makueni & 2 others; Mutune & another (Interested Parties); Kyambi (Ex parte Applicant) (Environment and Land Judicial Review Case E004 of 2023) [2025] KEELC 7203 (KLR) (23 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7203 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E004 OF 2023

EO OBAGA, J

OCTOBER 23, 2025

**IN THE MATTER OF ARTICLES 25(C), 40, 47
AND 50 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF SECTION 8 AND 9 OF THE
LAW REFORM ACT CAP 26 LAWS OF KENYA**

AND

IN THE MATTER OF THE LAND ADJUDICATION ACT CAP 284

AND

IN THE MATTER OF FAIR ADMINISTRATIVE ACT NO. 4 OF 2015

**IN THE MATTER OF APPLICATION OF JUDICIAL REVIEW
ORDERS CERTIORARI, PROHIBITION AND MANDAMOUS**

AND

**IN THE MATTER OF A DECISION OF AN APPEAL TO THE MINISTER CASE
NO. 192/1994 DELIVERED BY THE DEPUTY COUNTY COMMISSIONER –
MAKUENI ON THE 5TH SEPTEMBER, 2022 OVER LAND PARCEL NO. 1713**

BETWEEN

REPUBLIC APPLICANT

AND

THE DEPUTY COUNTY COMMISSIONER MAKUENI 1ST RESPONDENT

**THE DIRECTOR FOR LAND ADJUDICATION & SETTLEMENT
MAKUENI 2ND RESPONDENT**

THE HON ATTORNEY GENERAL 3RD RESPONDENT



AND

SAMSON MWATU MUTUNE INTERESTED PARTY

BENJAMIN MUSINGA INTERESTED PARTY

AND

ANTONY KYALO KYAMBI EX PARTE APPLICANT

RULING

1. This is a ruling in respect of a Preliminary Objection brought by the Interested Parties on the following grounds:
 - a. The leave was granted to the Applicant/Respondent herein to apply for judicial review order of certiorari on the 7th day of March, 2023 and he had not obtained letters of administration.
 - b. The Applicant is seeking to enforce orders on Plot No. 1713 Mukuyuni Adjudication Section on behalf of the Estate of Ngui Mukosi but has not obtained letters of administration.
2. The Ex-parte Applicant filed a chamber summons dated 2nd March, 2023 in which he sought leave of the court to bring judicial review proceedings against the Respondents and Interested Parties. The chamber summons was served upon the Respondents and Interested Parties. On 7th March, 2023, leave was granted as prayed. As at the time leave was granted to the Ex-parte Applicant, he had not obtained letters of administration in respect of the estate of Ngui Mukosi who had died before the appeal to the Minister could be concluded. No one raised the issue of locus standi at the time.
3. The Ex-parte Applicant subsequently obtained a limited grant of letters of administration ad litem pursuant to which he filed a substantive application for judicial review on 18th October, 2023.
4. The Interested Parties are contending that the Ex-parte Applicant has not obtained letters of administration in respect of the estate of Ngui Mukosi. The parties were directed to file written submissions on 3rd February, 2025. As at 5th October, 2025 when writing this ruling, neither the Interested Parties nor the Ex-parte Applicant and Respondents had filed their submissions.
5. It is clear that as at the time leave was sought, the Ex-parte Applicant had no grant of letters of administration. This issue was never raised by the Interested Parties who had been served with the chamber summons. The Ex-parte Applicant subsequently obtained a limited grant of letters ad litem before filing the substantive motion for judicial review. The Interested Parties cannot therefore be heard to argue that the Ex-parte Applicant is proceeding with the judicial review proceedings without obtaining letters of administration.
6. Consequently, I find that the preliminary objection is devoid of merit. The same is dismissed with no order as to costs.

It is so ordered.

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HON. E. O. OBAGA

JUDGE



RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 23RD DAY OF OCTOBER, 2025.

In the Presence of:

Mr. Kioko for Interested Party/Applicant

Court Assistant – Steve Musyoki

