



**Ameli v Ong'ondo (Environment and Land Case E025 of 2025)
[2025] KEELC 7852 (KLR) (11 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 7852 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND CASE E025 OF 2025
FO NYAGAKA, J
NOVEMBER 11, 2025**

BETWEEN

PASTOR RAPHAEL ACHACHA AMELI PLAINTIFF

AND

GEORGE OKOTH ONG'ONDO DEFENDANT

(On whether or not to approve a party's power of attorney to be represented by donee)

RULING

1. Before me is an application, made orally, in which the Plaintiff prayed that this Court permits his son, one Geoffrey Oteno Achacha, to represent him herein through the actualization of a power of attorney. The application follows the institution of the instant suit and the circumstances that obtained all along regarding the suit land. These circumstances, it appears to me, and it became clear when the issue of how the previous application regarding the recusal of this Court was under consideration, were that the said son is the one on whom the Plaintiff has been relying to carry out much of whatever appertains to the suit land.
2. Further, it seems to this court that it has thus become necessary for the Plaintiff to donate the power of attorney so that the son may effectively litigate the matter on that behalf. That explains why the Plaintiff apparently drafted the pleadings, and even the applications herein either by himself or through the said son, or just signed digitally, and filed them still through the efforts of the son. There is nothing wrong with one doing as the Plaintiff and son have been doing or intending to do. The only downside of these acts is, are the acts or steps they are taking legally sound, or are they systematically damaging the Plaintiff's case? On that, this Court will not decide as it is not an issue before me. It will handle the matter as the parties present it and make determinations it is called upon to make at any and every stage it is obligated to make.



3. Suffice it to say that in the previous Ruling herein, delivered on *Ameli v Ong'ondo* (Environment and Land Case E025 of 2025) [2025] KEELC 7253 (KLR) (21 October 2025) (Ruling) regarding recusal, this Court had the following to say:

“1. ...There is no dearth of decisions this Court has given calling on parties to draft pleadings properly and that where they act in person they need to seek legal advice not from quacks but properly trained legal counsel. This is because I have seen often parties lose cases or defences which extremely good for reason of poor drafting of pleadings and seeking and relying on improper ‘legal advice’.

2. From the lamentations in the instant application, this appears to be the case: the Plaintiff/ applicant must have heavily relied on the advice of his son, George, who admitted in the testimony he gave, as shown below, that he is not a lawyer yet he insisted on urging his father’s case from a point of his own understanding of what the law is and not what actually the law is. If this is to continue, whether in this Court or any other without the father seeking proper legal advice, the Court can only decide the case as will be presented. Courts do not sit to assist any parties frame their cases or panel beat their pleadings and point to parties the gaps in presentation of evidence in one way or other. To do so would cause them to be partial in the adversarial legal system.”

4. This Court will once more state that it would be wiser for the Plaintiff to seek proper legal advice from legal experts than relying on nonprofessional experimental advice. His case is not a raw material for processing for a future case on the same suit land: once this Court makes a determination on the issues in controversy over the same suit land as between the parties, it will have sealed them forever either as at this level or in readiness for consideration at the appellate stage forever closure. It is said elsewhere that one word for a wise man is enough. After all, this court has emphasized in another matter elsewhere that there is good reason why, in this world, we have experts in various professions. Nonprofessionals should leave professionals to do their job as experts, and it would do well for people to seek advice from professionals and pay for that service. The premium paid for that professional service saves the whole issue in the long run.

5. Thus, in *Nyaoke & 7 others v Ayaga* (Environment and Land Appeal E024 of 2024) [2025] KEELC 7345 (KLR) (28 October 2025) (Judgment), this court stated:

“52. ..Even the Holy Bible asks a simple question to all humanity, in Jeremiah 12:5, “If you have raced with men on foot and they have worn you out, how can you compete with horses? If you stumble in safe country, how will you manage in the thickets by the Jordan?”. Be it known to the world that lawyers run on horses and compete in thickets by the river Jordan that is invested with crocodiles and other dangerous animals. It would require great intellect (and maybe Artificial Intelligence or AI) and guesswork for non-professionals to compete effectively with even poorly trained professionals, including lawyers. Lawyers, just as other professionals, went to school to gain knowledge superior to that of non-professionals in their fields. Everybody should teach themselves to always seek proper professional advice.”

6. Regarding the above excerpt, what this Court is saying is that lawyers just like any other professionals in every field ‘run’, in the thickets of the ‘Jordan rivers’ of this complicated world, using ‘horses’ (expert



knowledge) specialized in their fields. Let no one build confidence even in the use of Artificial Intelligence (AI) to compete with professionals and expect to beat them in their game. If one did not become an expert in a certain field as to be singled out as such, how can he/she compete with the experts in that field and defeat them? Our members of society should not cheat themselves, as will become clear below, in their misadvised associations to think that they become experts in fields overnight.

7. That said, the relevant provisions on the oral application before me are Order 9 Rule 2(a) of the Civil Procedure Rules, 2010 which provides that,

“The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

subject to approval by the court in any particular suit persons holding powers of attorney or an affidavit sworn by the party authorizing them to make such appearances and applications and do such acts on behalf of parties;”

8. The above provision should be read in conjunction with Order 9 Rule 1 which too provides that:

“Any application to or appearance or act in any court required or authorized by the law to be made or done by a party in such court may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by an advocate duly appointed to act on his behalf:”

9. The totality of the meaning of the two provisions cited is that a person not wishing to act or appear by himself or herself in a matter before a court may appoint a recognized agent to appear or act for him. In instances where he/she decides to have someone appear for him through a power of attorney, the court has to approve of that other person (the donee) to so act.

10. It is worth starting this deeper analysis with an understanding of the meaning of the power of attorney. According to Black's Law Dictionary, that document which is referred to as a "Power of Attorney" is defined to mean:

“1. An instrument granting someone authority to act as an agent or attorney-in-fact for the grantor. 2. The authority so granted; specify the legal ability to produce a change in legal relations by doing whatever acts are authorized.”

11. Similarly, in *Gatatha Farmers Company Limited v Chemtingei & 3 others; Kaitet Tea Estates (1977) Limited & another (Interested Parties)* (Environment & Land Case 9 of 2023) [2024] KEELC 3299 (KLR) (22 April 2024) (Ruling), this court had this to say;

“In other words, a Power of Attorney is an instrument conferring authority by deed. The person conferring the authority is termed the donor of the power, and the recipient of the authority, the donee (see Halsbury's Law of England, 4th Edition Vol. 1, para 730, page 438).”

12. In *Jack J. Khanjira and Anor v Safaricom Ltd* [2012] eKLR Mwangi J. held, of a power of attorney that was before him, as follows:

“Clearly, the essential characteristic of a person acting as a recognized agent is that he or she acts, appears or makes any such applications, acts or appearances subject to the approval of the court. The above provision is important because by the very nature of the instrument of their appointment, it may donate to them powers which are, in law, untenable. So that,



it appears to me that when exercising their functions in court, they must periodically obtain the approval of the court to do such acts. It is for the court to oversee the scope and extent of the functions of a recognized agent, and to assure itself that they are not overstepping the bounds of the law. In my view, it is not the fact of being an agent that renders a donee of a power of attorney as recognized; it is the extent or scope of their agency that is recognized. That is to say, a recognized agent can perform only that which he is recognized or authorized to do in law. In this regard, I would go as far as to say that, for orderly representation in court, every appearance, act or application by a recognized agent should be subjected to the approval of the court as and when sought to be done.”

13. The question that remains then is, what form of the power of attorney is acceptable before the court, and how is it to be duly or legally recognized? There are various types of powers of attorney. They may be general or specific powers of attorney while others may be irrevocable or enduring. As to which power of attorney one executes, it depends on the purpose for which it is made. Be that as it may, when a person elects to give a power of attorney, it must follow a certain legal format (content) and particularly be registered as required by law for it to be binding and valid as to be relied on.
14. Kenya has no statute specifically dealing with powers of attorney, unlike other jurisdictions as the United Kingdom, some states in Australia and others. But the *Registration of Documents Act*, Chapter 285 Laws of Kenya has some provisions regarding the registration process. Section 12 of the Act provides as follows:

“Every document presented for registration shall be presented by the party executing or claiming an interest under it or his agent or attorney duly appointed, or by the representative or assign of such person.”
15. Then, Section 2 of the Act has two key definitions applicable herein. They are;

““Principal Registrar” means such person as may be appointed by the Cabinet Secretary to exercise the duties of the Principal Registrar of Documents;

“registrar” means any person appointed by the Cabinet Secretary to exercise the duties of a registrar of documents;”
16. The procedure in registration of powers of attorney is neither complicated nor very different from that of other documents such as deeds. It is that one executes the Power of Attorney instrument which has to be witnessed and duly stamped, then he/she pays Stamp Duty for it and presents proof thereof to the Registrar, and he/she provides the identifications of both the donor and donee, that is to say, their Identity Cards or passports, and where applicable their PIN certificates. He or she also had to present passport-size photographs of the donor and donee as per the registry requirements, if any), and registration fees at the relevant registry, together with a lodging the form or request with the Registrar of Documents.
17. This court has carefully considered the document referred to as the Power of Attorney herein by both the Plaintiff and the son. It was filed herein on 3rd November 2025 at 4:15 PM. The document is titled Form LRA 6 and is issued or made under the *Land Registration Act*, and the Land Registration (General) Regulations 2017.
18. In essence the document presented to this Court as a “Specific Power of Attorney” to enable the Plaintiff to donate power to the son, one Geoffrey Oteno Achacha, as his name appears, is an instrument drawn and filed under the *Land Registration Act*. One would naturally ask, what is the purpose of the



‘power of attorney’ the Plaintiff intended to give the son? In my humble view, the ‘power of attorney’ filed herein is one that is meant to give the son all authority to act as the Plaintiff in this suit, that is to say, literary, a power to make the son a Plaintiff instead of the Plaintiff himself. But the instrument relates to a power being donated to the son to register an unnamed parcel of land for and on behalf of the father or donor. It may well appear from the content in the section and paragraph referenced as “Power Limited to the Following” to be that power is being given to the donee to act in court and do all that which is listed. But that is not the import of such an instrument. For this court to make an error and treat such an instrument as a valid power of attorney for the purposes of this suit, it would mean that an instrument designed for giving power to a donee to register land is erroneously used for other purposes. That would give rise to fundamental procedural flaws which even Article 159(2)(d) of *the Constitution* cannot cure.

19. In any event the short title of the *Land Registration Act* under which the Regulations under which the Form the Plaintiff quickly retrieved, printed, filled, and filed reads as follows:

“An Act of Parliament to revise, consolidate and rationalize the registration of titles to land, to give effect to the principles and objects of devolved government in land registration, and for connected purposes.”

20. Additionally, the Regulations of 2017 which found the Form which the Plaintiff printed and quickly executed and filed were duly gazetted under Legal Notice No. 278 of 2017 pursuant to the *Land Registration Act* whose Short Title this Court has given. It is clear that the purposes and connected purposes of the *Land Registration Act* and the Regulations made thereunder relate to the registration of title to land and land registration. They do not extend to giving powers to anyone through instruments made thereunder to file or defend suits.
21. There is a difference in the way a power of attorney under this Act and for purposes of the carrying out of acts relating to registration of interests in land is drawn and a power of attorney giving a donee authority to act for the donor in a suit. The instrument I have before me does not refer to the instant suit at all although it is a document that was made or executed after the institution of this suit. It even refers to multiple suits, yet it does not identify them. This court wishes not to question deeper into whether the person who drew this document was a qualified legal practitioner or not.
22. Even if the instrument presented to this court and purporting to be a Specific Power of Attorney was to be in the proper format, and thereby that this court were wrong in its finding, the document had grave flaws or errors that this court cannot approve it as a valid power of attorney. These were that does not bear the Date Received, the Presentation Book No. Official Fees Paid and Receipt No. for the payment. Further, and of great importance, it bears no Title Number and the Registered Proprietor. Again, it bears no PIN No. (number) of the Donor and does not have passport size photographs of both the Donor and Donee. Moreover, it has not been registered as a Power of Attorney in the relevant Office since it is missing the number and the date of the registration in the Section which reads, REGISTERED in the Register of Powers of Attorney as No. this ... day of 20...” Lastly, it is neither sealed nor signed by the Land Registrar. These are such fundamental gaps that this Court cannot take ignore.
23. This court is disappointed that its intellect was underrated by whoever drew this document purported to be a power of attorney filed herein. Again, it is sad that the Plaintiff failed to heed the directions of the court following the previous Ruling that he needs to seek legal advice regarding this matter. However, this is his case. The court does not speak further than this.



24. The upshot is that the application is not merited. It is denied. The document purporting to be a power of attorney herein is not one, no matter how it is dressed, clothed or robed. The Respondent will have the costs of both attendances of the last date in court and today's.
25. This Court directs that the application dated 31st August 2025 proceeds forthwith.
26. Orders accordingly.

RULING DATED, SIGNED, AND DELIVERED VIRTUALLY VIA THE TEAMS PLATFORM ON THE 11TH DAY OF NOVEMBER 2025.

HON. DR. IUR NYAGAKA,

JUDGE

In the presence of,

Court Assistant: Ms. Fiona

Pastor Achacha, the Plaintiff

Ms Ogalo Advocate for the 1st Respondent.

