



Mini Holdings Limited & another v Astonfield Management Ltd & 3 others (Civil Suit E213 of 2022) [2025] KEHC 16622 (KLR) (Commercial and Tax) (14 November 2025) (Ruling)

Neutral citation: [2025] KEHC 16622 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT E213 OF 2022
FG MUGAMBI, J
NOVEMBER 14, 2025**

BETWEEN

MINI HOLDINGS LIMITED 1ST PLAINTIFF

HARWOOD LIMITED 2ND PLAINTIFF

AND

ASTONFIELD MANAGEMENT LTD 1ST DEFENDANT

ASTONFIELD RENEWABLE RESOURCES LTD 2ND DEFENDANT

ASTONFIELD SOLAR (AJMER) PRIVATE LTD 3RD DEFENDANT

AMEET SHAH 4TH DEFENDANT

RULING

Background and Introduction

1. By way of a Notice of Preliminary Objection dated 18th February 2025, the 4th defendant seeks the dismissal of this suit on the grounds that this Court lacks jurisdiction to hear and determine the dispute between the 2nd plaintiff and the defendants. The 4th defendant contends that the subject matter of the suit falls outside this Court’s territorial jurisdiction. He further asserts that the term sheet in question was executed and performed in India, with the funds being disbursed and payable therein. He notes that the 1st, 2nd and 3rd defendants are foreign entities incorporated outside the jurisdiction of this Court. The objection is opposed by the 1st plaintiff through written and supplementary submissions.



Analysis and Determination

2. Upon consideration of the pleadings and the respective submissions of the parties, the first issue for determination is whether the preliminary objections currently raised are in fact barred by the doctrine of res judicata. The principle of res judicata is codified under Section 7 of the *Civil Procedure Act*, which stipulates:

“No court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court.”

3. The elements and application of this doctrine have been firmly established in jurisprudence, notably in the Supreme Court decision of *Kenya Commercial Bank Limited V Muiri Coffee Estate Limited & Another*, [2016] eKLR.
4. Against that backdrop, it is undisputed that this Court rendered a ruling on 15th March 2024 in respect of an application dated 7th October 2022, which sought the dismissal of the present suit on the ground of lack of jurisdiction. The applicant contended that the cause of action between the plaintiffs and the defendants arose in India, thereby placing it outside the jurisdiction of this Court. In paragraph 14 of that ruling I pronounced myself thus:

“It is my view that the contract was performed partly in Kenya where the SBLC was initiated for the benefit of the 1st defendant and its subsidiaries in India. I do however note that section 15 provides as an alternative, that a suit arising from a contractual relationship can be filed where a defendant resides. The rationale for this is informed by consideration including convenience and reduced expenses for the defendant to defend a lawsuit in their place of residence, easier access to legal representation and certainly the ease of enforcing a judgment in the defendants’ locality.”

5. Having pronounced myself in this previous ruling regarding the subject matter of the contract between the plaintiff and the defendants, revisiting the same issue at this stage would amount to sitting in an appeal over my own decision. Consequently, any challenge to the said determination can only be directed to a superior court.
6. I may for finality sake address the contention that the 1st, 2nd and 3rd defendants are foreign entities incorporated outside the jurisdiction of this Court. In my considered view, even if that was the case, this argument does not constitute a valid objection to the Court’s jurisdiction. The mere fact of a party’s foreign incorporation does not, in and of itself, oust the jurisdiction of a Kenyan court where the cause of action is otherwise justiciable within this forum.
7. I reiterate the position I adopted in a previous decision, *Superonschweisstechnik India Limited V Oxychem Africa Limited & The Registrar of Trademarks*, HCCC E635 of 2023, where I emphasized that the foundation of a cause of action is not necessarily predicated on the plaintiff’s registration or business operations within Kenya, but rather on the enforcement of a legal right.

Disposition

8. For these reasons the preliminary objection dated 18th February 2025 is hereby dismissed with costs.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF NOVEMBER 2025.

F. MUGAMBI

JUDGE

