



REPUBLIC OF KENYA



**Wamithi v Chabari & 3 others (Land Case E044 of 2025)  
[2025] KEELC 8176 (KLR) (21 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8176 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
LAND CASE E044 OF 2025  
TW MURIGI, J  
NOVEMBER 21, 2025**

**BETWEEN**

**ROBERTSON WAMITHI ..... APPLICANT**

**AND**

**FRANCIS NYAGA CHABARI ..... 1<sup>ST</sup> RESPONDENT**

**MAINA IRUNGU & CO ADVOCATES ..... 2<sup>ND</sup> RESPONDENT**

**CHIEF LANDS REGISTRAR NAIROBI ..... 3<sup>RD</sup> RESPONDENT**

**REGISTRAR OF TITLES ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. Before me for determination are two applications and a preliminary objection raised by the 1<sup>st</sup> Defendant.
2. The first application is a Notice of Motion dated 5<sup>th</sup> February 2025, brought under Order 51 Rule 1 of the Civil Procedure Rules, in which the Applicant seeks the following orders:-
  - a. Spent.
  - b. Spent.
  - c. The 1<sup>st</sup> Respondent be restrained by itself, its servants or agents, or whomsoever from offering for sale, mortgaging, charging, transferring, assigning or otherwise disposing of all that parcel of land comprised in title L.R. No. 25077 (I.R. No 91614/1) pending the hearing and determination of this suit.
  - d. The 3<sup>rd</sup> and 4<sup>th</sup> Respondents be restrained from registering or effecting any transfer or other dealings with all that parcel of land comprised in title L.R. No. 25077 (I.R. No. 91614/1) pending the hearing and determination of this suit



- e. That the costs of this application be provided for.
3. The application is premised on the grounds appearing on its face together with the supporting affidavit of Robertson Wamithi, sworn on even date.

### **The Applicant's Case**

4. The Applicant averred that he sold the entire parcel of land comprised in L.R. No. 25077 (I.R. No. 91614/1) to the 1<sup>st</sup> Respondent for Kshs 3,450,000/= vide a sale agreement executed in 2003.
5. Subsequently, the 1<sup>st</sup> Respondent's Advocates prepared a transfer instrument which he executed, but the 1<sup>st</sup> Respondent failed to register it for over 20 years.
6. He further averred that sometime in August 2023, the 1<sup>st</sup> Respondent sought his assistance in finalizing the agreement and it was mutually agreed that the transfer would be redrawn to indicate that it was made on 20<sup>th</sup> August 2003. In addition, it was agreed that the 1<sup>st</sup> Respondent would pay him Kshs 3,500,000/= for the inconvenience, legal costs, and other related expenses.
7. That in September 2024, the 2<sup>nd</sup> Respondent, acting as Counsel for the 1<sup>st</sup> Respondent, prepared and delivered a Transfer under the Registration of Titles Act(repealed) to his Advocate, which acknowledged that the suit land was transferred in August 2003. However, his advocate advised that the transfer be redrawn under the [Land Registration Act](#), which the 2<sup>nd</sup> Respondent subsequently did.
8. Later, he and the 1<sup>st</sup> Respondent executed the signature page of the Transfer document dated 20<sup>th</sup> August 2003.
9. He further stated that upon receiving the registered transfer, he discovered that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents had fraudulently altered the first page and inserted a new page indicating the Transfer date as 6<sup>th</sup> December 2024. He asserted that these fraudulent alterations violated the provisions of the [Stamp Duty Act](#) and the [Land Registration Act](#).
10. He stated that because the 1<sup>st</sup> Respondent failed to register the transfer in 2003, Kenya Revenue Authority (KRA) issued a tax demand against him for rental income from August 2003 to date, despite the 1<sup>st</sup> Respondent having collected rent from the suit land.
11. He argued that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' fraudulent alteration of the Transfer effectively validates KRA's tax demands against him to his detriment.
12. He further argued that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents registered the falsified transfer despite clear irregularities in the execution date compared to the transfer date, thereby enabling the collusion between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.
13. The Applicant is apprehensive that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents might charge or sell the suit property to defeat this suit if the orders sought are not granted.

### **The 1<sup>st</sup> Respondent's Case.**

14. The 1<sup>st</sup> Respondent filed a replying affidavit dated 25<sup>th</sup> February 2025 in opposition to the application.
15. He acknowledged executing a sale agreement with the Applicant on 4<sup>th</sup> April 2003, for the suit property. He stated that upon learning that his advocate at the time had not registered the transfer, he instructed the 2<sup>nd</sup> Respondent to register the transfer on his behalf.



16. That during a meeting between the parties and their advocates, the Applicant demanded Kshs 3,500,000/= as expenses to sign the transfer, which he paid under duress.
17. That the Applicant's Advocate insisted that the date of execution should remain as August 2003, which they executed.
18. He further stated that when his Advocate submitted the transfer for registration, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents insisted that the actual date of submission to the Registry, which was 6<sup>th</sup> December 2024, should be recorded on the Transfer document.
19. He stated that he submitted the transfer for stamp duty assessment and paid the stamp duty in full.
20. He denied owing KRA any outstanding rent tax and stated that no tax demand had been issued against him. He also refuted the claim that he failed to comply with stamp duty provisions. He argued that the Tax Tribunal is the appropriate forum to resolve this matter. Additionally, he claimed that the suit is unfounded and filed solely to unjustly enrich the Applicant.
21. The 1<sup>st</sup> Respondent filed a preliminary objection dated 24<sup>th</sup> February 2025, raising the following grounds:-
  - a) That the court lacks jurisdiction to entertain the Originating Summons as it relates to an alleged exclusion of penalties on Stamp Duty. The decision by the Collector of Stamp Duty made on 11<sup>th</sup> December 2024 renders the matter subject to adjudication by the Tax Appeals Tribunal.
  - b) That the court lacks jurisdiction to entertain the Originating Summons as it offends Order 37 Rule 8 of the Civil Procedure Rules and Part VII and Part VIII of the [Land Registration Act](#), having pleaded fraud and sought rectification of the register.
  - c) That the suit is defective for non-joinder of the Collector of Stamp Duty and KRA.
  - d) That the Originating Summons and the application are incompetent and an abuse of the court process.

### **The 2<sup>nd</sup> Respondent's Case**

22. The 2<sup>nd</sup> Respondent filed a replying affidavit, sworn on 20<sup>th</sup> February 2025, in opposition to the application. He asserted that the application and originating summons have no legal basis.
23. He asserted that the Applicant admits that the transfer instrument indicated that he did not sign the document on 20<sup>th</sup> August 2003 but at a date between 15<sup>th</sup> August 2023 to 10<sup>th</sup> December 2023. He stated that the Applicant did not prove that the Transfer was drawn and dated 20<sup>th</sup> August 2003 under the [Land Registration Act](#). He claimed there was no falsification of the transfer date to defeat the [Stamp Duty Act](#) or [Land Registration Act](#) provisions. Additionally, he stated that the parties confirmed that the Transfer Instrument was executed in November and December 2024.
24. He stated that the Chief Valuer rejected the initial valuation of Kshs 3,450,000 and increased it to Kshs 23,000,000. He also stated that the Applicant did not claim fraud to justify challenging the 1<sup>st</sup> Respondent's ownership of the suit property.

### **The Response**

25. The Applicant filed a supplementary affidavit in response to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' replying affidavits, in which he reiterated the contents of his affidavit.



26. In response to the preliminary objection, he argued that the dispute does not concern stamp duty assessment but involves the falsification and/or fraudulent alteration of the date on the Transfer document, which is within this court's jurisdiction. He also stated that the application is valid, as it is grounded in Order 37 Rule 3 of the Civil Procedure Rules.
27. The second application is a Notice of Motion dated 30<sup>th</sup> July 2025, brought under Articles 50(1) and 159(2)(b) of *the Constitution* of Kenya 2010, Order 51 Rule 1 of the Civil Procedure Rules, and Section 3A of the *Civil Procedure Act*, in which the 1<sup>st</sup> Defendant/Applicant seeks the following orders:-
- a) Spent
  - b) Spent
  - c) That pending the hearing and determination of this application, KRA be joined to these proceedings as a 5<sup>th</sup> Respondent.
  - d) That the Honorable Court be pleased to summon the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to show cause why they have failed, neglected, and or refused to file and serve their respective responses to the Originating Summons application dated 5<sup>th</sup> February 2025.
  - e) That the costs incidental to this application be borne by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.
28. The application is premised on the grounds appearing on its face together with the supporting affidavit of Francis Nyaga Chabari sworn on even date.

### **The Applicant's Case**

29. A summary of the grounds and the averments is that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents have failed or refused to file any response to the Originating Summons despite being represented in court on 25<sup>th</sup> February 2025.
30. He argued that on 3<sup>rd</sup> April 2025, the court reserved a ruling date because the 3<sup>rd</sup> and 4<sup>th</sup> Respondents had stated that they had filed their responses. He emphasized that their continued absence is delaying the expeditious and fair determination of this suit. He pointed out that, without their presence, the court lacks crucial information about revenue loss or how the assessment affected monthly rental income, if at all.

### **The Plaintiff/respondent's Case**

31. The Plaintiff filed a replying affidavit sworn on 8<sup>th</sup> September 2025, in opposition to the application. He argued that the application was intended to derail the proceedings and delay the ruling scheduled for 21<sup>st</sup> November 2021. He stated that when the matter was mentioned on 3<sup>rd</sup> April 2025, Counsel for the 3<sup>rd</sup> and 4<sup>th</sup> Respondents was granted 14 days to file their response. A further extension of 7 days was granted on 28<sup>th</sup> May 2025, but they did not comply.
32. He argued that the application was prompted by the 1<sup>st</sup> Respondent's realization that his submissions would not be considered due to the lapse of time. According to him, the persistent failure by the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to respond indicates their disinterest in these proceedings. He maintained that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents cannot be compelled to participate in the proceedings at the request of the 1<sup>st</sup> Respondent.
33. The Plaintiff opposed the joinder of KRA because no cause of action had been demonstrated against it, and therefore, the joinder would not serve any purpose.



34. He emphasized that his reference to KRA was only about his tax assessment, since the property was still registered in his name before the disputed transfer.
35. He argued that it is misleading for the 1<sup>st</sup> Respondent to claim that he acquired the property in 2003 but only made it habitable in 2016 before becoming liable for income tax.
36. He stated that it is incorrect to claim that the 1<sup>st</sup> Respondent has been paying income tax since 2017, as the only tax compliance certificate applies to the year 2025/2026. He argued that the 1<sup>st</sup> Respondent did not provide tax certificates for earlier years because the property was not in his name before the disputed transaction; therefore, the relevant income tax assessments were issued in his name. He urged the court to dismiss the application with costs.
37. He contended that the non-participation by KRA does not hinder the fair and expeditious disposal of this matter.

### **The Response**

38. In a further affidavit sworn on 24<sup>th</sup> September 2025 the Applicant asserted that the delay in serving the application was neither intentional nor prejudicial to the Applicant.
39. He asserted that the 1<sup>st</sup> Respondent was using procedural technicalities to avoid addressing the core issues of the dispute. He maintains that the roles of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents, as custodians of the land register, make their failure to respond a serious breach of their public duty and undermine justice and accountability of public officers. He emphasized that their involvement in this case is mandatory, not optional.
40. He argued that their non-participation is malicious, made in bad faith, and intended to create a gap in the facts that will ultimately favour the 1<sup>st</sup> Respondent and deprive him of his property.
41. He contended that the 1<sup>st</sup> Respondent's objection to the joinder of KRA is unfounded, as his case is partly based on the allegation of tax evasion, making it a necessary party.
42. He argued that the 1<sup>st</sup> Respondent is resisting the joinder due to fear of not paying capital gains tax on this transaction and of not having paid tax on the money he extorted from him.
43. He insisted that the court has jurisdiction to investigate whether the statutory procedures and requirements were followed in reaching the contested tax assessment and subsequent transfer. He maintained that his current tax compliance certificate is prima facie evidence that all his prior tax assessments have been settled.
44. Both applications as well as the preliminary objection were canvassed by way of written submissions. Parties filed their submissions, which I have duly considered.

### **Analysis And Determination**

45. Having considered the applications, the preliminary objection and the rival submissions, the following issues fall for determination:-
  - a. Whether the preliminary objection is merited?
  - b. Whether the Applicant has met the threshold for the grant of an injunction?
  - c. Whether the 1<sup>st</sup> Respondent is entitled to the orders sought?



46. The law on preliminary objections is well settled. A preliminary objection must be on a pure point of law.

In *Mukisa Biscuits Manufacturing Company Ltd Vs West End Distributors Ltd* (1969) EA 696, Law JA stated as follows:-

“So far as I’m 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 submission that the parties are bound by the contract giving rise to the suit to refer the dispute to arbitration.”

47. Further on, Sir Charles Newbold JA stated;

“The first matter relates to the increasing practice of raising points which should be argued in the normal manner, quite improperly by way of preliminary objection. A preliminary objection is in the nature of what used to be a demurrer. It raises a 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 had to be ascertained or if what is sought is the exercise of judicial discretion. The improper raising of points by way of preliminary objection does nothing but unnecessarily increase costs and, on occasion, confuse the issue. The improper practice should stop.”

48. In *Oraro Vs Mbaja* (2005) eKLR Ojwang J (as he then was) described it as follows;

“I think the principle is abundantly clear. “A Preliminary Objection” correctly understood is now well identified as, and declared to be a point of law which must not be blurred with factual details liable to be contested and, in any event, to be proved through the process of evidence. An assertion which claims to be a Preliminary Objection and yet it hears factual aspects calling for proof, or seeks to adduce evidence for its authentication is not, as a matter of legal principle, a true Preliminary Objection which the Court should allow to proceed.”

49. For a preliminary objection to be valid, it must be on a point of law and must be founded on facts that are not in dispute. It should not be proved through facts or evidence, nor deal with disputed facts.

50. The 1<sup>st</sup> Respondent raised four grounds in the preliminary objection, which can be condensed into two grounds, namely:-

- a) Whether this court has jurisdiction to hear and determine this suit and application?
- b) Whether the suit is fatally defective for lack of joinder.

51. The issue of jurisdiction is a pure point of law that can determine the matter without having to consider the merits of the case. This Court is therefore satisfied that the 1<sup>st</sup> Respondent’s Preliminary Objection is based on a pure point of law.



52. It is trite law that jurisdiction is everything, and without it, the court cannot take one more step in the case. The locus classicus on jurisdiction is the celebrated case of Owners of Motor Vessel ‘Lillian S’ vs Caltex Oil (Kenya) Limited (1989) eKLR, where the Court held that:-

“Jurisdiction is everything. Without it, a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings...”

53. Similarly, the Supreme Court in the case of Samuel Kamau Macharia & Another vs Kenya Commercial Bank Limited & 2 Others [2012] eKLR pronounced itself thus;

“A Court’s jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. .... Where the Constitution exhaustively provides for the jurisdiction of a Court of law, the Court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation....”

54. A court derives its jurisdiction from the Constitution, legislation, or both. The jurisdiction of this court is derived from Article 162(2)(b) of the Constitution and Section 13 of the Environment and Land Court Act.

55. The 1<sup>st</sup> Defendant is challenging the jurisdiction of this court on the grounds that the dispute herein falls under the jurisdiction of the Tax Tribunal. It was submitted that the Applicant is contesting the administrative decision by the collector of stamp duty, whose function is under KRA. It was further submitted that the grievance raised by the Applicant is centered on the assessment of the duty payable on a land transaction and the alleged wrongful failure to exclude penalties. The Applicant maintained that he mentioned KRA for tax assessment. The Applicant maintained that the dispute relates to fraudulent alteration of the Transfer Instrument.

56. The 1<sup>st</sup> Respondent argued that the court lacks jurisdiction as the originating summons offends Order 37 Rule 8 of the Civil Procedure Rules as it invokes serious allegations of fraud which cannot be determined in an originating summons. It was submitted that the Applicant is seeking rectification of the register on the grounds of fraud on the part of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. He maintained that issues of fraud, conspiracy and misrepresentation cannot be handled in an originating summons due to their contested nature.

57. The Applicant on the other hand asserted that the suit is validly founded on Order 37 of the Civil Procedure Rules. It was submitted that the reference to taxation is a consequence of the fraudulent acts and is not an independent issue to warrant the intervention of the Tax Tribunal.

58. The Originating Summons shows that the reliefs sought relate to the transfer of the title for the suit property, which, in my view, falls under the jurisdiction of this court. The issue of whether the suit relates to fraud is an issue of facts which fall outside the threshold of a preliminary objection.

59. The 1<sup>st</sup> Defendant asserts that the suit is fatally defective for non-joinder of the collector of stamp duty and KRA.

60. The law governing the joinder of parties is based on Order 1 Rule 10(2) of the Civil Procedure Rules, which states as follows;

“The Court may at any stage of the proceedings, either upon, or without the application of either party, and on such terms as may appear to the court to be just, order that the name



of any party improperly joined, whether as Plaintiff or Defendant be struck out, and that the name of any person who ought to have been joined, whether as Plaintiff or Defendant or whose presence before the court may be necessary to enable the court to effectually and completely to adjudicate upon or settle all questions involved in the suit be added.”

61. The 1<sup>st</sup> Respondent submitted that the Applicant had accused the Collector of Stamp Duty of waiving the stamp duty during the registration of the transfer instrument. He further submitted that the Originating Summons speaks of some unpaid taxes. He maintained that the omission to join the collector of Stamp Duty and the KRA is not a mere procedure, as it goes to the heart of the determination.

62. In the case of *Civicon Limited vs Kivuwatt Limited & 2 others* (2015) eKLR, the Court of Appeal referred to *O’Hare & Hills Civil Litigation* 7<sup>th</sup> Edition where the authors stated as follows: \_

“One cannot be added as a Plaintiff unless one gives one’s consent in writing. In contrast, anyone can be joined as a Defendant even against his wishes. However, no person can be a Defendant unless the Plaintiff claims some relief, even if only a declaration against him. The general rule of practice is that the Plaintiff is “dominus litis.” This means that he is entitled to choose the Defendants against whom he wishes to pursue his claim for the relief or remedy he seeks and that he cannot be compelled to proceed against other persons whom he does not desire to sue.”

63. The Applicant argued that the 1<sup>st</sup> Defendant had not demonstrated reasonable cause on why the Collector of stamp duty and KRA should be joined in the proceedings herein. The Applicant has the right to choose the parties to sue. They cannot be compelled to proceed against persons whom they have no desire to sue. This means that KRA and the Collector of Stamp Duty cannot be added as Respondents without the Applicant’s consent, as doing so would alter the nature of the suit.

64. On whether the Plaintiff has met the criteria for an injunction, the principles applicable in an application for an injunction were laid down in the celebrated case of *Giella vs Cassman Brown & Co Ltd*, 1973 EA 358, as follows.

- a) First, the applicant must show a prima facie case with a probability of success.
- b) Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable harm which would not be adequately compensated by an award of damages.
- c) Thirdly, if the court is in doubt, it will decide an application on a balance of convenience.

65. The first issue for determination is whether the Applicant has established a prima facie case with a probability of success.

66. A prima facie case was defined by the Court of Appeal in *Mrao Ltd Vs First American Bank of Kenya Ltd & 2 Others* (2003) eKLR as follows;

“A prima facie case in a civil application includes but is not confined to a genuine and arguable case”. It is a case which, on the material presented to the court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.”

67. It is not in dispute that the Applicant and 1<sup>st</sup> Respondent executed a sale agreement for the suit property. The Applicant argued that the process leading to the registration of the Transfer Instrument



was tainted with fraud including stamp duty assessment. It is not in dispute that both parties had agreed that the Transfer Instrument should be dated 20<sup>th</sup> August 2003. The 1<sup>st</sup> Defendant contended that the lands office insisted that the date of presentation be recorded on the Transfer Instrument. The Applicant argued that the KRA had issued a tax demand for rent for the period of 2003 to date. Based on the material placed before me, I find that the Applicant has established a prima facie case.

68. On whether the Applicant will suffer irreparable harm which cannot be adequately compensated by award of damages, the Applicant must demonstrate that it is a harm that cannot be quantified in monetary terms or cannot be cured.
69. The Court of Appeal in *Nguruman Limited Vs Bonde Nielsen & 2 Others* (2014) eKLR held that: -

“On the second factor, the Applicant must establish that he might otherwise suffer irreparable injury which cannot be adequately remedied by damages in the absence of an injunction, is a threshold requirement and the burden is on the Applicant to demonstrate prima facie, the nature and extent of the injury. Speculative injury will not do; there must be more than an unfounded fear or apprehension on the part of the Applicant. The equitable remedy of temporary injunction is issued solely to prevent grave and irreparable injury; that is injury that is actual, substantial and demonstrable; injury that cannot adequately be compensated by an award of damages. An injury is irreparable where there is no stand by which their amount can be measured with reasonable accuracy or the injury or harm is such a nature that monetary compensation of whatever amount, will never be adequate remedy.”
70. In the matter at hand, the Applicant is apprehensive that the 1<sup>st</sup> Respondent might dispose of or charge the suit property if an injunction is not granted. This court is convinced that the Applicant’s fears are not baseless.
71. Based on the material placed before me, I find that the Applicant will suffer irreparable loss if the suit property were to be charged or sold to third parties before this suit is heard and determined.
72. On balance of convenience, the court has to weigh the hardship to be borne by the Applicant by refusing to grant the injunction, against the hardship to be borne by the Respondents by granting the injunction. Looking at the evidence presented by the parties herein, I find that the balance of convenience is in favour of preservation of the suit property pending the hearing and determination of this suit.
73. The 1<sup>st</sup> Respondent is seeking to have the 3<sup>rd</sup> and 4<sup>th</sup> Respondents summoned to show cause why they have failed or refused to file their respective responses to the Originating Summons. The Applicant argued that the conduct of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents clearly shows that they are not interested in the proceedings herein. It is not in dispute that the 3<sup>rd</sup> and 4<sup>th</sup> Respondents have been served with the pleadings. They are therefore aware of this matter. It is the finding of this court that it cannot force the 3<sup>rd</sup> and 4<sup>th</sup> Respondents to participate in the proceedings herein.
74. On whether KRA should be joined as a 5<sup>th</sup> Respondent, I have found that the Applicant has the right to choose the parties to sue. He cannot be compelled to proceed against persons whom he has no desire to sue.
75. In the end, I find that the application dated 5<sup>th</sup> February 2025 is merited and the same is hereby allowed in the following terms:-
  - a) ) The 1<sup>st</sup> Respondent is hereby restrained by himself, his servants or agents or whomsoever from offering for sale, mortgaging, charging, transferring, assigning or otherwise disposing of



all that parcel of land comprised in title L.R No. 25077 (I.R No. 91614/1) pending the hearing and determination of this suit.

- b) The Applicant is awarded costs of the suit.
- C) The preliminary objection dated 24<sup>th</sup> February 2025 and the application dated 30<sup>th</sup> of July 2025 are devoid of merit and are hereby dismissed with costs to the Applicant.

**RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 21<sup>ST</sup> DAY OF NOVEMBER, 2025.**

.....

**T. MURIGI**

**JUDGE**

In The Presence Of:

Ngatia for the Applicant

Alland Kamau for the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

Ahmed – Court assistant

