

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ELCLC NO E 102 OF 2025

LYDIA MARY MUNYOKI & ANOR
PLAINTIFFS

VERSUS

SHIRAZ GULAMALI & ANOR
DEFENDANTS

RULING

1. The Preliminary Objection dated 25th August, 2025 is primarily based on the following ground that the court lacks territorial jurisdiction to hear or entertain this matter as the suit is situated in Nyali in Mombasa County and not in Malindi.
2. I think “*territorial jurisdiction*” is not a good ground upon which to dismiss the entire claim even if it were true that the suit property is located in Nyali. There are very many cases which have come before this court in respect of which the Land Reference Number reads “*Section III/Mainland North*”, and unless the court examines other evidence upon which to determine the Preliminary Objection it cannot come to any proper or informed determination regarding the objection. It is the court's view that the ground on which the Preliminary Objection is based is not an appropriate one. The objection cannot be determined without prior scrutiny of extraneous documents such as maps, which is against the rule in **Mukisa Biscuits Manufacturing Company Limited Versus West**

End Distributors Limited 1969 EA 696. It should not therefore have been raised as a Preliminary Objection.

3. The upshot is that the Preliminary Objection lacks merit and it is here by dismissed with costs to the Plaintiff.
4. A response shall be filed to the Notice of Motion dated **5th August, 2025** within 7 days from today. The application shall be disposed up by way of written submissions filed by the applicant within 14 days from today, and by the respondent within 21 days from today.
5. The application shall be mentioned on **23rd February 2026** for issuance of a ruling date.

Dated, signed and delivered at Malindi on this 21st day of January, 2026.



**MWANGI NJOROGE,
JUDGE, ELC MALINDI.**