



Abdi & another v Arvic Tours and Travels Limited (Changed to Ainushmsi Multiple Agencies Limited) & another (Environment and Land Case E003 of 2023) [2026] KEELC 114 (KLR) (22 January 2026) (Directions)

Neutral citation: [2026] KEELC 114 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND CASE E003 OF 2023
EK MAKORI, J
JANUARY 22, 2026**

BETWEEN

NIMO AHMED ABDI 1ST PLAINTIFF

ABDIRAHAMAN MUHUMED ABDI 2ND PLAINTIFF

AND

**ARVIC TOURS AND TRAVELS LIMITED (CHANGED TO AINUSHMSI
MULTIPLE AGENCIES LIMITED) 1ST DEFENDANT**

ISAAC JUMA OBILA 2ND DEFENDANT

DIRECTIONS

1. This matter was due for a Ruling on a Preliminary Objection and a chamber summons, particularly regarding the jurisdiction of this court, as raised by the 3rd Defendant/Applicant, as disclosed in the PO and application dated 10th of December 2025.
2. The Ruling was not ready, as explained to the parties, occasioned by the late receipt of the file from Malindi, now that the court is on transfer to Nyeri.
3. As the court was providing directions as to the new Ruling date, Mr. Makwaro stated he wished to have the entire filed suit by the Plaintiff withdrawn with no orders as to costs.
4. Mr. Bwire for the 2nd Defendant and Mr. Kiplagat for the 3rd Defendant did not object to the withdrawal but demanded their costs, having prepared for a hearing.
5. Mr. Bwire then raised the issue that, on December 25, 2025, the Plaintiff encroached on the suit properties with building materials, oblivious of the orders in place issued by this court. He sought that the orders be extended, that his client remain in possession, and that there be no construction pending the outcome of the Ruling, and that the same be supervised by the OCS Kilifi police station. Since his



- client has counterclaimed in the matter, the counterclaim's substratum will change if no status quo orders are issued.
6. On his part, Mr. Makwaro contends that such status quo orders cannot issue because the issue raised by his client concerns a change in the company's directorship and its shares. He seeks to withdraw the matter and has already filed a new matter in the appropriate forum; his client cannot be bound by orders of this court, as it lacks jurisdiction.
 7. Mr. Kiplagat maintains that his client, having litigated with the 2nd Defendant and won the matter in Malindi ELC No. 130 of 2020 – Mombasa, which has long been appealed, cannot be bound by the status quo orders, as the orders would undermine the judgment in the Mombasa case and the pending appeal.
 8. It should be noted that parties were granted time to file submissions and necessary averments – it seems none fully complied, as all parties requested more time to fully comply.
 9. I have reviewed the counterclaim dated 15th April 2025, filed by the 2nd Defendant. In paragraph 17, which forms part of the prayers, the 2nd Defendant states:
 - a. That the Plaintiff is the legal owner of LR Nos. 10173 and 10174 and has never sold, transferred, amalgamated, or subdivided the same to give rise to the purported LR No.28432 or resultant subdivisions, namely LR Nos.28432/1 and LR No.28432/2. It remains in possession of the original documents.
 - b. It has never dealt with the Plaintiffs, the 1st Defendant, or the Interested Party, nor participated in any transactions giving rise to the amalgamation of LR No.10173 and 10174 to give rise to LR No.28432, or subsequent subdivision of LR No.28432 to the purported LR Nos. 28432/1 and 28432/2.
 - c. The purported registration of LR NO.28432 and any subsequent transactions involving the same were unlawful, fraudulent, and of no legal effect.
 - d. The Interested Party and the 1st Defendant acted fraudulently in purportedly selling land they did not own, and any purported title is null and void.
 - e. It has never been disposed of the scheduled properties and remains in continuous possession thereof to date.
 - f. The 2nd Defendant/Plaintiff in the counter-claim seeks cancellation of the scheduled properties to revert to the original ownership with other attendant reliefs.
 10. The issues raised in the pending Preliminary Objection and application significantly attack the Plaintiff (now to be withdrawn) and the counterclaim that:
 - i. The Court lacks jurisdiction to delve into issues involving directorship, shareholding, and transfer of shares to the Interested Party.
 - ii. The 2nd Defendant's counterclaim is res judicata, Mombasa ELC No.130/2020, and the issues raised in the Plaintiff (to be withdrawn) and counterclaim have been settled in the Mombasa suit(now) pending appeal.
 11. Having apprised myself of the foregoing facts, it will be noted that this court, on 2nd April 2025, gave the following orders:



- a. Consent entered on 16th February 2023 and extracted on 17th February 2023 is hereby set aside ex debito justitiae.
 - b. Leave to the 2nd Defendant to be joined in these proceedings as the 2nd Defendant.
 - c. Orders issued on 13th March 2025 are to persist to the extent that there shall be no dealings to be registered concerning the suit property described as LR NO.28432, Amalgamation LR No.10173, and LR No.10174 and that the consent dated and entered on 16th February 2023 as endorsed on 17th February 2023 is of no effect until this matter is heard and determined.
12. This matter underwent several pre-trials before the matter was set down for hearing at the hearing dates – the Plaintiff and the 3rd Defendants were not ready to proceed, and on the eve of the hearing, the Preliminary Objection and the application were brought (refer to the record).
13. What the Preliminary Objection raises has been set out above and will go to the heart of this court's jurisdiction. Consequently, in my view, the appropriate direction to take pending the resolution of the Preliminary Objection and the Chamber Summons will be:
- a. The Plaintiff is hereby allowed to withdraw his suit with costs to the 2nd and 3rd Defendants
 - b. The orders dated 2nd April 2025 are to remain in effect, and the status quo on the ground is to be maintained, that is, the suit, properties described as LR No.28432, Amalgamation LR No.10173, and LR No.10174 (resultant subdivisions LR Nos. 28432/1 and 28432/2) remain as registered. Since the 2nd Defendant remains in possession, the status quo persists, and there should be no construction on the scheduled properties by any of the parties.
 - c. That OCS Kilifi Police Station to ensure compliance.
 - d. That the pending Preliminary Objection and the application be heard at the earliest, and the parties provide timelines for filing of responses and submissions.
 - e. The orders above are only to remain during the pendency of the Preliminary Objection and the application under discussion to avoid further convoluted and for the preservation of the substratum of the suit awaiting the determination of the motions under review.
 - f. Orders accordingly.

DIRECTIONS DATED, SIGNED, AND DELIVERED AT NYERI, VIRTUALLY, THIS 22ND DAY OF JANUARY 2026

E. K. MAKORI

JUDGE

In the presence of:

Ms. Marubu for the Defendant

Kendi: Court Assistant

In the absence of:

The Plaintiff

