REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIVASHA

ELC APPEAL CASE NO. E020 OF 2025

NICHOLAS WACHIRA MUTUNGI

JAMES NJIHIA MWATHI

JAMES MACHARIA NDUNGU

CHARLES KAMAU MUCHAI

GEOFFREY KAMAU PAUL…………………………………………….APPELLANTS

VERSUS

KINANGOP FARMERS SELF HELP GROUP

(Sued through its officials

PETER KAMU KAMANGA -CHAIRMAN

JOSEPHAT MWANIKI GITAU-SECRETARY

SHADRACK MWAI MBUGUA-TREASURER……………………RESPONDENTS.

(An appeal from the Ruling of Abduqadir Ramadhan Chief Magistrate in Naivasha CMELC No. 89 of 2018 delivered on 7th April 2025)

BETWEEN

NICHOLAS WACHIRA MUTUNGI

JAMES NJIHIA MWATHI

JAMES MACHARIA NDUNGU

CHARLES KAMAU MUCHAI

GEOFFREY KAMAU PAUL…………………………………………….PLAINTIFFS

VERSUS

KINANGOP FARMERS SELF HELP GROUP

(Sued through its officials

PETER KAMU KAMANGA -CHAIRMAN

JOSEPHAT MWANIKI GITAU-SECRETARY

AND

SHADRACK MWAI MBUGUA-TREASURER………………………DEFENDANTS.

JUDGMENT.

1. Coming up for determination on Appeal is a matter in which, Hon. Abduqadir Ramadhan, Chief Magistrate, in his ruling dated 7th April 2025 dismissed the Appellants' Applications, one dated the 1st November 2022, seeking to amend a Plaint dated 3rd November 2022 to join 51 other persons as co-Plaintiffs and thereinafter, file new documents showing that their interest in the suit land had been affected adversely, and another dated 18th October 2024, where the Appellants sought contempt proceedings against the Respondents. After the dismissal, the learned trial Magistrate had directed that the matter be fixed for hearing on its merit.
2. The Plaintiffs/Appellants, being dissatisfied with the said ruling, have now filed the present Appeal on the following grounds in their Memorandum of Appeal:
   i. That the learned magistrate erred in law and fact in failing to consider adequately or at all the submissions by the Appellant and the authorities submitted.
   ii. That the learned magistrate erred not to recognize the existence of a Court Order dated 18th September 2019 and what it really meant regarding the suit land and assumed that no such an orders existed.
   iii. That the learned magistrate erred in law and fact in failing to put into consideration the continued interference of the interests of the appellants in the suit land Gilgil/Gilgil Block 1/16155.
   iv. That the learned magistrate failed to consider the fact that the continued activities on the suit land would lender (sic) the hearing on the suit nugatory, as what the appellants were claiming in the Plaint is what is being disposed of.
   v. The learned magistrate erred in law and in fact In failing to give any directions on what was to take place

on the suit and pending the hearing and determination of the suit as per the Order dated 18th September 2019 in which the Defendants were cited for contempt.

vi. That the learned magistrate erred in law by failing to consider that the appellants would be prejudiced if there was continued interference with the suit land before a determination is made on whether the plaintiffs were entitled to three or two acres.

vii. That the learned magistrate erred in law by failing to consider that the Judgment by Justice D.O. Ohungo in Nakuru ELC Appeal No 30 of 2019 dated 17th December 2020 did not in any way interfere with the order dated 18th September 2018

viii. That the learned magistrate erred in law and in fact by assuming that the JUDGMENT by Justice D.O OHUNGO delivered on 17th December 2020 allowed the subdivision of the suit land.

ix. That the learned magistrate erred in law and in fact in failing to consider that the Appellants' claim is against the whole suit land being Gilgil/Gilgil Block 1/16155 and not the 15 acres as claimed by the Defendant.

3. The Appellants thus sought the following;

i. A declaration that the Respondents are in contempt of the court orders dated 18th September 2019 and they should be committed to civil jail.

ii. A declaration that all activities that have happened on the suit land after the orders issued on 18th September 2019 are null and void.

iii. The court to consider the fact as laid in this appeal and award cost to the Appellants.

iv. The Respondents bear the costs of the appeal.

4 The appeal was not opposed as the Respondents did not file any response, and was disposed of by way of written submissions wherein the Appellants, vide their submissions dated 26th November 2025, focused on the preservation of the subject matter and the integrity of the judicial process.

5 They argued that the trial court's dismissal of the contempt and joinder applications effectively handed a half-victory to the Respondents before the trial even began.

6 They contended that the learned Magistrate's ruling was fundamentally flawed because it failed to protect the substratum of the suit. Their grievance was thus centred on the fact that while the court directed the matter to proceed to a hearing, it permitted the destruction of the suit property's original state, thereby rendering any future judgment in their favour nugatory.

7 They emphasised that there had been an order issued on the 18th September 2019, which barred any activities from taking place on parcel GILGIL/GILGIL BLOCK 1/16155. That this order remains valid, has never been appealed, and is the basis for the contempt application.

8 That in a Judgement dated 17th December 2020, Justice Ohungo set aside orders of the 13th November 2019. The Appellants thus submit that this judgment did not interfere with the order of 18th September 2019, which had directed the parties to maintain the status quo.

9 They argued that the Respondents had already altered the boundaries of the suit land through a 2019 Mutation and submitted that, if the appeal is not allowed, the court will be presiding over a ghost suit because the original land parcel, Block 1/16155, no longer exists in its undivided form. As it stood, while the Kinangop Self Help Group was benefiting from the subdivision, the Kinangop Farmers Co. Ltd was left vulnerable and without land.

10 They invoked the Doctrine of Equity, stating that the court's primary duty is to ensure no injury is caused to a party while the matter is pending. They argued that by ignoring the contemptuous acts of

subdivision and interference with the suit land, the trial court had undermined the principle of equity to all parties.

11 The Appellants sought that their Appeal be allowed with costs, the trial court's ruling be set aside, and the Respondents be deemed in contempt of the 18th September 2019 orders. Lastly, all the subdivisions/mutations made on parcel Gilgil/Gilgil block 1/16155 since 2019 be reverted /nullified to restore the suit's integrity.

Analysis of the Applications.

12. Briefly, the matters leading to this appeal are that the Appellants herein filed two applications in the trial court, wherein in their first application dated 1st November 2022, brought under the provisions of Section 100 of the Civil Procedure Act, Order I rule 10(2), (4), Order VI A rule 3, 5 and 8 of the Civil Procedure Rules and any other enabling provisions of the law, they sought to amend their Plaint filed on 3rd November 2022 so they could join 51 other persons as co-Plaintiffs and then submit new documents demonstrating that their interest in the suit land had been adversely affected.

13. The application was supported on the grounds thereto as well as on the supporting affidavit sworn by Nicholas Wachira Mutungi, James Njihia Mwatha, James Macharia Ndirangu, Charles Kamau Muchai and Geoffrey Paul Kamau, who deponed that when they filed their Plaint dated 16th November 2018, they had originally intended to include 78 other people as co-plaintiffs but failed to list these individuals or have them sign the necessary documents at the time of the initial filing.

14. That the 51 individuals they intended to join were bona fide members of the Kinangop Farmers Self-Help Group who had an interest in the matter, and their inclusion in the suit would determine the issues herein effectively.

15. In response, the Respondents, through a Replying affidavit sworn on the 24th September 2024, by Peter Kamau Kamanga, Christopher Kagocha Waikwaini, Christopher Kagocha Waikwaini and Sammy Kinungi Mukomerl, as the Chairman, Secretary and Treasurer

respectively of the Respondent, deponed that the Respondent was a registered Self-Help Group formed in 1974 by farmers from Kipipiri to buy and share land.

16. The suit land, being Gilgil/Gilgil block 1/16155 (Kekopey), measuring approximately 521.47 hectares, was purchased by the group decades ago, where they only received the formal title deed in 2014. They began the survey and subdivision process in 2017, and by the time the suit was filed by the five Appellants, the subdivision process had not been completed, making it impossible to identify individual members' shares and entitlements.

17. Subsequently, the subdivision was completed, and the Appellants' portions of land had been identified. That the Appellants now wish to amend their claim to allege that they were entitled to three acres each, which was not tenable, and secondly to bring in 51 other persons, which was an abuse of the court process, as they aimed to prolong the suit. That the persons thought to be joined had not sworn any affidavits nor disclosed their interest in the suit. That while the majority of them are now deceased like Plaintiffs No. 15, 56 and 13, others have denied being involved in litigation with the group, like Plaintiffs 52, 14, 56, 23 and yet others, like No. 17, 29, had sold their shares, further the proposed Plaintiff, like No 33, was not a member but a son of the proposed Plaintiff No. 16.

18. That if, at all, the proposed Plaintiffs had grievances against the Respondents, they were still free to file their own suits so as not to subject the determination of the current suit to the uncertain vagaries of persons who had not filed documents to buttress the alleged grievances. That further, should the proposed Plaintiffs be joined to the suit, it would defeat the pecuniary jurisdiction of the trial court, since one acre of land was valued at between Ksh. 200,000/= and Ksh. 500,000/= where each member was entitled to two acres.

19. In the second application dated the 18th October 2024, brought under the provisions of Section 3A (sic) Order 40 Rule 1 and Order 51 Rule 1 of the Civil Procedure Acts (sic), Article 29 of the Constitution

and all the enabling provisions of the law, the Appellants sought contempt proceedings against the Respondents for having disobeyed the court orders of 18th September 2019 and 17th December 2020. The application was based on the grounds therein and a Supporting affidavit sworn by Nicholas Wachira Mutungi, James Njihia Mwatha, James Macharia Ndirangu, Charles Kamau Muchai and Geoffrey Paul Kamau who deponed that the matter had been in court where there had been numerous orders made for the preservation of the disputed subject matter being No. Gilgil/Gilgil block 1/16155 (Kikopey) Measuring approximately 521.47 hectares.

20. That the Honourable court in its order of 18th September 2019 and the Appellate Court in its Judgment of 17th December 2020 gave directions that parties maintain the status quo where no other orders have been issued, on the contrary. The status quo in this matter has been that the subject of dispute should not be sold, disposed of, or interfered with, and therefore any act of interference would be a pure act of contempt and violation of good order.

21. That during the proceedings, the Respondent proceeded to subdivide the said suit land as per copies of a mutation form dated 14th April 2021, herein annexed as ‘’JNN2’’.

22. That a search was conducted on the 28th July 2021, which revealed that a restriction had been imposed at the Lands registry (from a Court Order)

23. That on 31st August 2022, another search was conducted, which revealed that the Title deed for the said parcel had already been closed, an act which constitutes contempt of a valid court Order.

24. That indeed one of the members of the Appellants in this matter has been sued based on a Tittle deed having issued in contempt of a Court Order restricting the issuance of Tittle deeds and the selling of the said land (to Samson Kinyanjui Muiruri)

25. They sought for the court to nullify all actions done on the suit land after the issuance of the court orders, including the subdivisions and issuance of title deeds.

26. In response, the Respondents, through a Replying affidavit sworn on the 12th November 2024, Peter Kamau Kamanga, Christopher Kagocha Waikwaini, Christopher Kagocha Waikwaini and Sammy Kinungi Mukomerl, as the Chairman, Secretary and Treasurer respectively of the Respondent, reiterated the brief history as herein above captioned before stating that the core of the dispute involved whether or not the Group violated court orders by subdividing the land. They deponed that an application had been made in 2018, in which the Appellants sought to prevent the Group from selling or disposing of the land, but did not specifically request to halt the subdivision.

27. On 20th February 2019, the Court issued an interim order that included a ban on subdivision, which order was erroneous because it introduced a restriction that the Appellants had not originally requested. That order was registered against the title. The order was subsequently adopted in the court's ruling of 19th November 2019.

28. That being dissatisfied with the court orders, they moved to the Nakuru Environment and Land Court on Appeal, where, in its judgment, the issue of subdivision was disposed of, and they were therefore free to proceed with the subdivision. This, in fact, was in tandem with the prayers sought by the Appellants in the main suit.

29. After subsequent rulings and appeals, the Group proceeded with subdivision, arguing that it was necessary to fulfil the suit's ultimate goal, which was to give members their individual titles.

30. The Group agreed through a resolution that its members who had been permitted to live on the land before demarcation would remain on the portion of land where they had built their houses and/or had been utilising, subject to confining themselves to the land they were entitled to.

31. They deponed that they were ready to issue titles provided certain conditions were met as follows:

32. The 15th Plaintiff Nicholas Wachira who was in occupation of Block 1/57685, James Macharia the 3rd Plaintiff in occupation of Block 1/57621, Charles Kamau the 4th Plaintiff in occupation of block

1/57656, were each to pay Ksh.18,500/= for survey and subdivision, then provide the requisite documents, sign the transfer forms, and pay the title processing fees for them to get title in their names.

33. For the 2nd Plaintiff, James Njihia, who was occupying Block 1/57695, he was to provide a Grant of Probate for his deceased father (Mwatha Njoroge), naming him as the beneficiary in respect to the said deceased person's share of land in the Respondent. That he was also to pay the survey fees of Kshs. 18,500/=, provide copies of his identity card and PIN Certificate as well as three coloured passport-size photographs. That he was also to sign the transfer form and pay the requisite title processing fees as would be determined. Lastly, the 5th Plaintiff, who was not a member but a son of a member, Philace Wangari Kairu, needed to get a letter from her appointing him as her nominee and authorizing the Group to issue him a title to her share of the land. Thereafter, he would make payments, provide and execute documents as herein above stated and then ballot. It was therefore not true that they had gone against the Court order by subdividing and selling the land. They had only issued titles to members of the Group who were entitled.

34. That the documents of sale annexed to the Appellants' affidavit were a clear disposition and transfer by members amongst themselves even before the suit was filed. The application was, therefore, without merit and was meant to delay the conclusion of the suit. It should therefore be dismissed.

Determination.

35. I have considered the record of appeal, the holding by the trial Magistrate, the written submissions by the Appellants and the applicable law. Conscious of my duty as the first Appellate Court in this matter, I have to reconsider the decision Appealed against, assess it and make my own conclusions as was stated by the Court of Appeal in **Paramount Bank Limited vs. First National Bank Limited & 2**

Others (Civil Appeal 468 of 2018) [2023] KECA 1424 (KLR) where the court held as follows;

> *"A first appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. A first Appellate Court is the final court of fact ordinarily and therefore a litigant is entitled to a full, fair, and independent consideration of the evidence at the appellate stage. Anything less is unjust. The first appeal has to be decided on facts as well as on law. While considering the scope of section 78 of the Civil Procedure Act, a first Appellate Court can appreciate the entire evidence and come to a different conclusion."*

36. Having summarised the gist of the Appeal herein, and noting that there was neither a response nor written submissions by the Respondent, I find the issue for determination on the first Application seeking joinder to be as follows;

    i. Whether the intended 51 Plaintiffs should be joined to the instant proceedings.

37. On the first issue for determination, the Appellants herein seek to join 51 intended Plaintiffs to the suit, and thereafter amend their Plaint and file additional documents. The reason given for such an application was simply that they had failed to include them or have them sign the necessary documents at the time of the initial filing. That the 51 individuals they intended to join in the proceedings were bona fide members of the Kinangop Farmers Self-Help Group who had an interest in the matter, and their inclusion in the suit would determine the issues herein effectively.

38. The application was opposed by the Respondent, who stated that while some of the intended Plaintiffs were deceased, others had no interest in the suit, some had already sold their shares, while others were not members of the group.

39. The Legislative framework on the issue of joinder of parties to a suit is spelt out in Order 1 Rule 10 of the Civil Procedure Rules. Under Order 1 Rule 10(2), the same provides that:

> *''The court may at any stage of 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 the name of any person who ought to have been joined either as plaintiff or defendant or whose <u>presence before the court may be necessary to enable the court to effectually and completely adjudicate upon and settle all questions involved in the suit to be added.(my emphasis)''</u>*

40. In **Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2016] KESC 12 (KLR) (Civ) (28 January 2016) (Ruling)** at paragraph 37, the Supreme court outlined the elements applicable to a party seeking to be joined as an interested party as follows:

   i. *''One must move the Court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:*
   ii. *The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.*
   iii. *The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated*

to the satisfaction of the Court. It must also be clearly outlined and not something remote.

iv. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.''

41. In **Central Kenya Ltd vs Trust Bank Ltd & 5 others [2000] eKLR**, the Court of Appeal held that;

> *"The paramount consideration is whether the party concerned is necessary for the effectual and complete adjudication of all the questions involved in the suit."*

42. Having considered all the circumstances in the present case, I find that a party cannot be added to a suit to introduce a new cause of action or to alter the nature of the suit, but must be a party or parties who are necessary to the constitution of the suit, without whom no decree can be passed. It should be a party or parties against whom a right or some relief is sought, or who, although no relief may be claimed against, but whose presence would be necessary to enable the Court effectively and completely adjudicate upon and settle all the questions involved in the suit.

43. The courts of this land have been consistent on the importance of observing the rules of natural justice and, in particular, hearing a person who is likely to be adversely affected by a decision before the decision is made. From the supporting affidavit herein filed, and the response to the same, I find that the Appellants have not persuaded me to exercise the court's discretion under the provisions of Order 1 Rule10 (2) of the Civil Procedure Rules to join the intended 51 Plaintiffs to these proceedings for the reason that this suit has been pending since 2018. To introduce 51 new parties six years later is a blatant

attempt to restart the clock and delay the final determination. The Applicants are guilty of laches (unreasonable delay).

44. Secondly, some of the intended Plaintiffs, as demonstrated by the Respondent, were deceased. It is a settled principle of law that a suit by a dead person is a nullity ab initio. No letters of Administration have been annexed to the application, and neither has there been any application for substitution made, thus rendering the application fatally flawed.

45. Pursuant to the provisions of Order 1 Rule 12, no person can be joined as a Plaintiff without their consent. The Respondents have evidence that several proposed parties have not authorised this litigation, and therefore, the application was moved without the authority of the very people it seeks to join.

46. Lastly, as pointed out by the Respondent, the addition of 51 claims, each valued at approximately Ksh 200, 000/= to Ksh 500,000/=, would push the value of the suit land far beyond the pecuniary jurisdiction of the Magistrates' Court.

47. In the second Application dated 18th October 2024, the Appellants sought contempt proceedings against the Respondents in relation to the orders of 18th September 2019 and 17th December 2020. They submit that the Respondent having been dissatisfied with the ruling of 18th September 2019 where the honorable Magistrate had granted an injunction order restraining the Respondent from selling, disposing or interfering with the Appellants' interest on the suit parcel of land pending the hearing and determination of the suit in the subordinate court, the Respondent filed an appeal to the Environment and Land Court in Nakuru ELCLA No. 30 of 2019. A Judgment was subsequently rendered on 17th December 2020 as follows;

> *'' I allow this Appeal and set aside the orders issued by the subordinate court on 13th November 2019. I emphasise, however, that the orders of 18th September 2019 are not affected by this appeal.''*

48. The Appellants complain that even after the orders of 18th September 2019 were confirmed by the Environment and Land Court on Appeal, during the existence of those orders, where parties were to maintain the status quo to the effect that subject of dispute should not be sold, disposed of, or interfered with, the Respondent had proceeded to subdivide the said suit land whereby a search conducted on 31st August 2022, revealed that the Title deed for the said parcel had already been closed, which was an act of interference and contempt of the court order.

49. The Respondent argued that the issue of subdivision was not one of the orders that had been granted by the court, and therefore, they were free to proceed with the subdivision, which was in tandem with the prayers sought by the Plaintiffs in the main suit. They conceded that they had subdivided the suit land to fulfil the suit's ultimate goal, which was to give members their individual titles.

50. **The Black's Law Dictionary (Ninth Edition)** defines contempt of court as:-

> *"Conduct that defies the authority or dignity of a court. Because such conduct interferes with the administration of justice, it is punishable usually by fine or imprisonment."*

51. The law guiding the present Application is Order 40 Rule 3(1) of the Civil Procedure Rules, which stipulates as follows: -

> *''In cases of disobedience, or of breach of any such terms, the Court granting an injunction may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in prison for a term not exceeding six months unless in the meantime the Court directs his release.''*

52. The Court of Appeal, in its Judgement of 11th April 2025 in the case of **Wekesa & 2 others v Munialo [2025] KECA 679 (KLR),** held as follows;

> *''It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove (i) the terms of the order, (ii) Knowledge of these terms by the Respondent, (iii). Failure by the Respondent to comply with the terms of the order. Upon proof of these requirements the presence of willfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities.*
>
> *Perhaps the most comprehensive of the elements of civil contempt was stated by the learned authors of the book **Contempt in Modern New Zealand**, who succinctly stated: a. the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;*
>
> *b. the defendant had knowledge of or proper notice of the terms of the order;*
>
> *(c) the defendant has acted in breach of the terms of the order; and;*
>
> *There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that:(d) the defendant's conduct was deliberate."*

53. Having said that, the following issues stand out for determination:

   i. Whether there was a valid order of the court issued on 18th September 2019 and restated on 17th December 2020

   ii. Whether the Respondent was served with or made aware of the said orders.

iii. Whether the Respondent herein deliberately and willfully failed to comply with the terms of the order and are guilty of contempt of the same.

54. The Court of Appeal in the case of **Mugah –v- Kunga [1988] KLR 748**, held that in land matters, status quo orders should always be issued for purposes of preserving the subject matter. The court's practice directions vide Gazette Notice No. 3461/2025 Practice Direction No. 23(l) give the court the leeway and discretion to make an order for status quo to be maintained until the determination of the case.

55. To this end, there is no dispute on the first two issues for determination, that there were valid interim orders issued by the trial court on 18th September 2019 and reaffirmed by the Environment and Land Court sitting as a first appellate court on 17th December 2020, which orders the Respondent was aware of.

56. As to whether or not the Respondent deliberately and willfully failed to comply with the terms of the order and is guilty of contempt of the same, the impugned order of 18th September 2019 had been as follows;

> *''Applying the principles as outlined herein I am therefore satisfied that an application dated 16th November 2018 is merited and is granted in the following terms that the Respondents, their associates or any other person working under their instructions are restrained by an order of interlocutory injunction from selling, disposing or interfering with the Plaintiff's interest on the suit parcel of land pending the hearing and determination of the suit.''*

57. A court order to maintain the status quo is a directive to the parties to preserve the current state of affairs and to take no action that would alter the subject matter of the dispute until further directions or until the matter is heard and determined.

58. In the above order, not only had no orders been issued restraining the Respondent from subdividing the suit land, but this was the game

changer. The Environment and Land Court held that the subordinate court had misdirected itself by banning subdivision when it was not specifically pleaded. By setting aside the 2019 ruling that specifically restricted subdivision, the 2020 order effectively removed the legal barrier to the survey process. Therefore, acting on a superior court's ruling could not be termed as willful disobedience.

59. Indeed, the Appellants' own suit had asked for titles to be issued. Subdivision was the only legal way to fulfil their own demands.

60. Since there had been no orders specifically addressed disallowing the subdivision to continue, I find that the act of subdividing would likely be seen as lawful execution of the court's final guidance rather than contempt. Therefore, being mindful that the burden of proof in contempt proceedings is higher than that in a normal civil matter because such proceedings have the potential of impacting the rights of a party who may end up being committed to civil jail, I thus find the Applicant’s application dated the 18th October 2022 lacks merit.

61. In the end, I find no reason to interfere with the trial Magistrate's Ruling of the 7th April 2025. I find both the Applications dated the 1st November 2022 and 18th October 2022 lack merit, and I proceed to dismiss them with costs.

Dated and delivered via Microsoft Teams at Naivasha, this 12th day of February 2026.

M.C. OUNDO

ENVIRONMENT & LAND COURT– JUDGE