



Munene (Suing as the legal representative of the Estate of Jackline Wanjira - Deceased and the Estate of Shaniz Ann Nyakio - Deceased) v Sambul & 2 others (Civil Miscellaneous Application E009 of 2023) [2026] KEHC 1535 (KLR) (Civ) (13 February 2026) (Ruling)

Neutral citation: [2026] KEHC 1535 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ISIOLO
CIVIL
CIVIL MISCELLANEOUS APPLICATION E009 OF 2023
SC CHIRCHIR, J
FEBRUARY 13, 2026**

BETWEEN

JACOB NDWIGA MUNENE (SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF JACKLINE WANJIRA - DECEASED AND THE ESTATE OF SHANIZ ANN NYAKIO - DECEASED) APPLICANT

AND

**YUSSUF SAMBUL 1ST RESPONDENT
LILIAN GACHERI MBAE 2ND RESPONDENT
IGNATIUS MBAE NGACIU 3RD RESPONDENT**

RULING

1. The Applicant, Jacob Ndwiga Munene, instituted this suit vide a Notice of Motion dated 17th June 2025, suing as the legal representative of the Estates of Jackline Wanjira (Deceased) and Shaniz Ann Nyakio (Deceased). The Application seeks for the following Orders:
 1. (Spent)
 2. (spent)
 3. That this Honourable Court be pleased to issue an order for consolidation of the three suits in Isiolo CMCC E114 of 2024 and E115 of 2024 and in Meru CMCC E150 of 2024 and E155 of 2024 for their hearing and disposal by the Magistrate Court at Isiolo.
 4. That costs of this application be provided.
 5. That the Honourable Court be pleased to grant any other relief that it deems fit.



2. The Application is premised on the grounds on the face of the Application and the supporting affidavit of the Applicant. He states that following a road accident which occurred on 5th May, 2024 involving motor vehicles KDL 146Z and KCR 801N, which claimed the lives of his spouse and daughter, he instituted two civil suits for compensation against the 1st Respondent. The suits are Isiolo CMCC E114 of 2024 and E115 of 2024. T He states that these suits have proceeded to the hearing stage, with two witnesses having testified.
3. The Applicant further avers that the 2nd and 3rd Respondents who are the his sister-in-law and father-in-law respectively, instituted their own suits against the 1st Respondent in the Meru Magistrate Court.
4. The Applicant further states that there are currently two Applications pending before the two courts, each seeking to strike off the other suit. The Applications are pending determination, and there might be the risk of conflicting outcomes. The Applicant therefore prays for the suits in Isiolo and Meru to be consolidated and be heard at the Isiolo Magistrate Court
5. The Application is opposed by the Respondents vide their Replying Affidavit sworn by the 2nd Respondent dated 26th August 2025 on behalf of the 3rd Respondent.
6. The Respondents state that the Meru suits being first in time takes precedence and the Isiolo suits are an abuse of the court process and offend the sub judice Rule. They further state that the accident occurred in Meru and therefore the cause of action arose within the territorial jurisdiction of Meru.
7. The Respondents further aver that by consolidating the suits in Isiolo, it would disrupt the Meru proceedings causing prejudice and delaying justice. That the Applicant's interest can be pursued under a succession cause.
8. The Application was heard by way of written submissions.

Applicant's Submissions

9. The Applicant has submitted that he possessed the necessary legal standing to institute the application on behalf of the deceased estates, relying on established principles of succession law.
10. The Applicant urged the Court to adopt an approach that prioritizes the resolution of the dispute on substantive grounds. In this regard he has relied on the Supreme Court decision in the case of Law Society of Kenya v Center for Human Rights & Democracy & 12 Others (2014) eKLR, to buttress his submissions in this regard.
11. It is further submitted that in the event that the Respondents have locus to institute the Meru suits, the Isiolo and Meru suits ought to be consolidated and proceed for trial in Isiolo where the suits have progressed substantively. Reliance was placed in the case of Nyati Security Guards & Services Ltd V Municipal Council of Mombasa(2000) eKLR
12. The Applicant further submitted that the distance from cause of action to Isiolo is nearer than Meru and thus urged this court to determine that both courts have territorial jurisdiction.
13. The Respondents did not file submissions.

Determination

14. I have considered the application, the affidavit in support, the replying affidavit and the submissions of the Applicant. The issue to be determined is whether the Applicant's deserve the orders sought.



15. Section 6 of the *Civil Procedure Act* provides that:-

“No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding is pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed”

16. In the instant suit there are four parallel suits involving the defendant, who is the 1st respondent herein. The cause of action is the same, namely a road Accident which occurred on 5th May 2024 along Meru- Nanyuki road, which resulted in the deaths of Jackline Wanjiru (1st deceased) and Shaniz Ann Nyakio(2nd deceased). The plaintiffs in the four suits are relatives of the deceased persons , all seeking for damages on behalf of the deceased persons estates. The Applicant herein is the husband and father of the deceased persons respectively , while the respondents are sister and Aunt to the 1st deceased and father and grandfather to the 1st and 2nd deceased respectively.

17. The suits at the chief Magistrate’s court in Meru are civil cases Nos E150 and E155 both of 2024 while the Isiolo chief Magistrate’s courts are Nos. E114 and E115 both of 2024. The suits in meru were filed on in June 2024 while the Isiolo ones were filed in September 2024.

18. Consolidation is a process designed to save costs, time and effort. In *Law Society of Kenya v Centre for Human Rights and Democracy & 12 others* [2014] KESC 29 (KLR) the Supreme Court stated that:

“The essence of consolidation is to facilitate the efficient and expeditious disposal of disputes, and to provide a framework for a fair and impartial dispensation of justice to the parties. Consolidation was never meant to confer any undue advantage upon the party that seeks it, nor was it intended to occasion any disadvantage towards the party that opposes it. In the matter at hand, this court would have to be satisfied that the appeals sought to be consolidated turn upon the same or similar issues. In addition, the court must be satisfied that no injustice would be occasioned to the respondents if consolidation is ordered as prayed.”

19. In *EAN Kenya Limited v. John Sawers & 4 others* (2007) eKLR Waweru J., had this to say on consolidation of suits: -

“.....the test to be applied is not whether the parties are the same but whether the same or similar questions of law or fact are involved in the suits.”

20. . It is evident that, aside from the issues of locus standi between the Applicant and the 2nd and 3rd Respondents, similar questions of law or fact are involved in the suits. The cause of action is the same and the defendant is the same. Further the competing interest in these matters is another reason to have them heard and determined together.

21. The underlying issue is not lost to this court, namely the question of the locus standi of each of the plaintiffs to sue on behalf of the deceased persons. In my view it is an issue that ought to have been litigated conclusively prior to filing of the compensation suits. However, it is not for this court to address this issue. I will leave it to the trial court . Nevertheless, this contest reinforces the need to have the suits consolidated so as prevent conflicting or multiplicity of decisions from separate courts and prevent unnecessary delays in concluding the matters.



22. The question of territorial jurisdiction raised by both parties is immaterial as the chief Magistrate's court enjoys countrywide jurisdiction. However, it is evident that the Meru suits were first in time. It is only appropriate that litigation be continued in Meru chief Magistrate's court.
23. In conclusion:
- a). Isiolo CMCC NO. E114 of 2024 and E115 of 2024 be and are hereby consolidated with Meru CMCC E150 of 2024 and E155 of 2024.
 - b). Isiolo CMCC NO. E 114 OF 2024 AND E115 OF 2024 are hereby transferred to Meru chief Magistrate's court for determination in the manner stated in (a) above.
 - c) Each party to meet their own costs in this Application.

DATED, SIGNED AND DELIVERED AT ISIOLO THIS 13TH DAY OF FEBRUARY 2026

S. CHIRCHIR

JUDGE.

In The Presence Of :

Roba Katelo- court Assistant

Jacob Muneene- The Applicant

Ms . Wambulwa -for the 2nd and 3rd Respondents

