



**Spacematics Systems Limited v National Bank of Kenya & 5 others (Environment and Land Case E015 of 2023) [2026] KEELC 571 (KLR) (9 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 571 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT AND LAND CASE E015 OF 2023  
EM WASHE, J  
FEBRUARY 9, 2026**

**BETWEEN**

**SPACEMATICS SYSTEMS LIMITED ..... PLAINTIFF**

**AND**

**NATIONAL BANK OF KENYA ..... 1<sup>ST</sup> DEFENDANT**

**KISEKEM LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**COLINET AUCTIONEERS ..... 3<sup>RD</sup> DEFENDANT**

**THE DIRECTOR, LAND ADMINISTRATION ..... 4<sup>TH</sup> DEFENDANT**

**THE CHIEF LAND REGISTRAR ..... 5<sup>TH</sup> DEFENDANT**

**THE HONOURABLE ATTORNEY GENERAL ..... 6<sup>TH</sup> DEFENDANT**

**RULING**

1. The 3<sup>rd</sup> Defendant (hereinafter referred to as “the Applicant”) did file a Notice of Motion dated 10.07.2025 (hereinafter referred to as “the present Application”) against the Plaintiff (hereinafter referred to as “the Respondent”) seeking the following Orders; -
  - a. That the Further Amended Plaint dated 9<sup>th</sup> July, 2024 and filed by the Plaintiff and the entire suit be struck out for disclosing no reasonable cause of action and being an abuse of the Court process.
  - b. That the costs of this application be provided for.
2. The grounds in support of the prayers are set out in the body of the present Application as well as the Supporting Affidavit of one Paul Yotui Kamuren and can be summarized as follows: -



- i. The proceeding before the Court relate to a property known as L.R. No. Eldoret Municipality Block 6/302 (hereinafter referred to as “the suit property”).
- ii. According to the Applicant, the suit property is an illegal sub-division of the property known as L.R. No. Eldoret Municipality Block 6/231.
- iii. The property known as L.R. No. Eldoret Municipality Block 6/231 was the subject of another litigation known as Eldoret Environment & Land Court Case No. 275 of 2012 which was determined through a Judgement pronounced on the 18.07.2019 in favour of the Applicant herein.
- iv. In addition to the declaration that the Applicant was the lawful owner of the property known as L.R. No. Eldoret Municipality Block 6/231 in the Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012, the Court did declare the sub-divisions known as L.R. No. Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 to have been created illegally and unprocedurally.
- v. Consequently, the Court in its Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012 did declare the properties known as Eldoret Municipality Block 6/310, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 to be invalid and void ab initio.
- vi. Further to the above, the Court in its Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012 did direct the Commissioner of Lands or the successor to revoke the registration and ownership documents relating to Eldoret Municipality Block 6/310, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306.
- vii. An Appeal was lodged before the Court of Appeal against the Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012 and was assigned the number Eldoret Court of Appeal No. 240 of 2019.
- viii. The Appeal known as Eldoret Court of Appeal No. 240 of 2019 was heard on its merit and a Judgement pronounced on the 09.05.2024 dismissing the same and upholding the Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012.
- ix. According to the Applicant, any dispute relating to the ownership of the property known as L.R. No. Eldoret Municipality Block 6/231 was settled in the proceedings known as Eldoret Environment & Land Court Case No.275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019.
- x. In view of the two decisions from the proceedings known as Eldoret Environment & Land Court Case No. 275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019, the Registry Index Map (RIM) creating the three sub-divisions known as Eldoret Municipality Block 6/310, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 was re-amended to its original state in which the original property known as L.R. No. Eldoret Municipality Block 6/231 had been drawn.
- xi. In essence, the Applicant was of the view that the Respondent’s cause of action in the present suit in terms of the creation and ownership of the suit property had already been determined.



- xii. Consequently, the Applicant did plead that the present suit is an abuse of the Court process and would result to issuance of conflicting decisions over the same subject matter by different courts.
- xiii. In conclusion, the Applicant sought this Court to allow the Application and dismiss the Respondent cause of actions herein.
3. The present Application was duly served on the Respondent herein.
4. Upon service, Respondent did oppose the present Application by filing a Replying Affidavit dated 16.09.2025.
5. In the Replying Affidavit dated 16.09.2025, the Respondent did oppose the present Application on the following grounds; -
- a. The Respondent did state that the prayer sought by the Applicant herein was ambiguous as it did not specify against which party the Plaintiff had not raised a valid cause of action against.
- b. The Respondent did clarify that the causes of action and reliefs sought in the present suit against the Applicant and the other Defendants was limited to a claim of damages due to the demolition that took place on the suit property.
- c. In addition to the above claim for damages for the unlawful demolition of his developments on the suit property, the Respondent was also seeking compensation from the 4<sup>th</sup> and 5<sup>th</sup> Defendant for issuance of a Letter of Allotment, Lease Agreement and Certificate of Lease in favour of the Respondent yet knowing very well that the suit property had been allocated to the Applicant herein.
- d. The Respondent was of the considered view that the actions of the Applicant in entering the suit property and evicting him were not procedural and therefore illegal resulting to immerse material and financial loss.
- e. According to the Respondent, if the only error in the Amended Plaint was the description of the property which is owned by the Applicant, then the fair and just recourse is to allow an amended to cure the anomaly that could be in existence.
6. The Replying Affidavit dated 16.09.2025 was duly served on the Applicant but the Applicant did not file any Further or Supplementary Affidavit thereof.
7. The Court then did direct that the present Application would be canvassed by way of written submissions.
8. The Applicant did file his submissions dated 31.10.2025 and the Respondent also did file his submissions dated 14.01.2026.
9. The Court has carefully considered the present Application, the Replying Affidavit, the submissions and identifies the following issues for determination; -
- Issue No. 1- Whether or not the further amended plaint dated 09.07.2024 discloses a cause of action against the applicant or other defendants?
- Issue No. 2- Whether the further amended plaint dated 09.07.2024 is an abuse of the court process against the applicant or other defendants?
- Issue No. 3- Whether the present application is merited or not?



Issue No. 4- Who shall bear the costs of the present application?

10. The Court having identified the above-mentioned issues for determination, the same will now be discussed herein below.

**Issue No. 1- Whether or not the further amended plaint dated 09.07.2024 discloses a cause of action against the applicant or other defendants?**

11. The first issue for determination is whether the Further Amended Plaint dated 09.07.2024 raises any cause of action against the Applicant herein or the other Defendants.
12. The Applicant states that the present suit by the Respondent does not disclose any cause of action against him or the other Defendants.
13. The Applicant is of the view that the Respondent was the registered owner of the suit property which was a subject of two litigations namely Eldoret Environment & Land Court Case No. 275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019.
14. In these two proceedings, the ownership of the suit property was resolved with finality in favour of the Applicant.
15. According to the Applicant, the ownership and existence of the suit property cannot be litigated upon by the Respondent against him in this proceeding as there is no dispute as regards the same.
16. As such, the Plaint being litigated herein does not disclose any cause of action against the Respondent.
17. The Respondent on the other hand admits that indeed the ownership of the suit property was litigated and declared to belong to the Applicant.
18. However, the Applicant did institute the present suit seeking damages and/or compensation from the Defendants herein jointly and severally.
19. The Respondent did plead that its cause of action against the Applicant herein was the demolition and eviction from the suit property without following due process and/or the law.
20. As earlier stated, the Applicant did not file any Further and/or Supplementary Affidavit in response to the Respondent's response.
21. Be as it may, the answer as to whether the Respondent has any cause of action against the Applicant can only be found in the Plaint under litigation.
22. Under Paragraph 6 C of the Further Amended Plaint dated 09.07.2024, the same reads as follows; -

“The Plaintiff's further contention is that its properties were demolished by the 3<sup>rd</sup> Defendant (the Applicant in this Application) despite the fact that it legally acquired land registration number Eldoret Municipality Block 6/302 and that the proper and legally laid down procedure for demolition and/or eviction was not followed by the 3<sup>rd</sup> Defendant to the detriment and personal disadvantage of the Plaintiff herein.”
23. Under Paragraph 8A, the Applicant did plead the following Particulars of Negligence and/or Malice on the part of the 3<sup>rd</sup> Defendant; -
  - “1. Failing, neglecting and/or refusing to notify the Plaintiff of the impending and/or planned demolition of property on land title number Eldoret Municipality Block 6/302.



2. Failing, neglecting and/or refusing to adhere to the legally laid down procedures for the demolition and eviction of persons from a premise.”
24. Lastly, the prayers that were sought in the Respondent’s Complaint under litigation are as follows; -
    - a. An Order of Permanent Injunction against the Defendants or their servants, agents or assigns from selling the Plaintiff’s Land Parcel Number Eldoret Municipality Block 6/302 and/or dealing with it in any way whatsoever.
    - b. A declaration that the laid down procedure of attaching and subsequently advertisement of sale through public auction of Parcel Number Eldoret Municipality Block 6/231 is a nullity since the land does not exist.
    - c. Damages for demolition of properties on Parcel Number Eldoret Municipality Block 6/302 without following the proper procedures and/or without notifying the Plaintiff.
    - d. Compensation of the value of the Land Title Number Eldoret Municipality Block 6/302 at the current market rates.
  25. The Court having carefully perused the Complaint under litigation and the above paragraphs, it is clear that the Respondent has a number of causes of action against different parties.
  26. The first cause of action is against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants thereof for the illegal and unlawful sale of the property known as Eldoret Municipality Block 6/231 which was no longer in existence.
  27. The second cause of action is against the 3<sup>rd</sup> Defendant for invading the Respondent’s property known as L.R. No. Eldoret Municipality Block 6/302 and demolishing the same without any eviction Order or following the laid down legal procedures.
  28. The third cause of action is against the 4<sup>th</sup> and 5<sup>th</sup> Defendants from issuing the Respondent with title documents of a property known as L.R. No. Eldoret Municipality Block 6/302 well knowing that the same had already been alienated to the Applicant herein.
  29. The Court having identified the three basic causes of action in the Complaint under litigation by the Respondent, the next issue will be to verify if the said causes of action were litigated in the two previous proceedings known as Eldoret Environment & Land Court Case No. 275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019 or not.
  30. However, before the Court proceeds to do the verification proposed hereinabove, it is crucial to also recapture the final Orders that were issued in the proceedings known as Eldoret Environment & Land Court Case No. 275 of 2012 and confirmed thereafter in Appeal known as Eldoret Court of Appeal No. 240 of 2019.
  31. The final Orders in Eldoret Environment & Land Court Case No. 275 of 2012 which were confirmed by the Court of Appeal in Eldoret Court of Appeal No. 240 of 2019 were as follows; -
    - a. A finding that the Plaintiff did demonstrate that the creation of Parcels Number Eldoret Municipality Block 6/301, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 on Parcel Number Eldoret Municipality Block 6/231 was a mistake, illegal and unprocedural.
    - b. A declaration was made that the Plaintiff is the registered proprietor as Lessee from the Government of Kenya over the property known as Eldoret Municipality Block 6/231 and



is entitled to immediate possession and use thereof to the exclusion of the 1<sup>st</sup> Defendant or anybody else.

- c. A declaration was made that the Lease issued and the Certificate extracted therefore in favour of the 1<sup>st</sup> Defendant over Eldoret Municipality Block 6/306 was by mistake and is therefore null and void initio and confers no title to the 1<sup>st</sup> Defendant.
  - d. A declaration that the 2<sup>nd</sup> Defendant therein do revoke the Lease issued in favour of the 1<sup>st</sup> Defendant over Eldoret Municipality Block 6/306.
  - e. A declaration that the 3<sup>rd</sup> Defendant herein do cancel the registration of the 1<sup>st</sup> Defendant therein as proprietors or Lessees of Eldoret Municipality Block 6/306.
  - f. A permanent injunction do issue against the 1<sup>st</sup> Defendant itself, its servants, agents or representatives or any other person howsoever acting on its behalf from occupying or remaining in occupation, possession or in any way whatsoever trespassing on the property known as Eldoret Municipality Block 6/231.
32. The Court now having all the facts above will proceed to verify whether or not the causes of action contained in the Plaint under litigation were already heard and determined in the other two previous proceedings known as Eldoret Environment & Land Court Case No. 275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019 or not.
  33. Being with the first cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants herein, it is not in dispute that the original property known as L.R. No. Eldoret Municipality Block 6/231.
  34. However, unknown to the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants herein, the same property known as Eldoret Municipality Block 6/231 and been unlawful sub-divided into three portions namely Eldoret Municipality Block 6/301, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 by the 4<sup>th</sup> and 5<sup>th</sup> Defendants.
  35. The sub-division known as Eldoret Municipality Block 6/302 was subsequently registered in the name of the Respondent herein while the property known as Eldoret Municipality Block 6/306 was registered in the name of one Michael Kipkering Cherwon.
  36. In the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012, the Applicant herein was the Plaintiff therein and the registered owner of Eldoret Municipality Block 6/306 was the 1<sup>st</sup> Defendant.
  37. The Respondent herein who was the registered owner of the property known as Eldoret Municipality Block 6/302 was never a party in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012.
  38. Be as it may, in the Judgement pronounced on the 18.07.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012 which was confirmed by the Court of Appeal in Eldoret Court of Appeal No. 240 of 2019, the following Order was made; -

“A finding that the Plaintiff did demonstrate that the creation of Parcels Number Eldoret Municipality Block 6/301, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 on Parcel Number Eldoret Municipality Block 6/231 was a mistake, illegal and unprocedural.”



39. The interpretation and/or understanding of this Court as regards the above Order was that all the sub-divisions known as Eldoret Municipality Block 6/301, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 were not good titles that would confer any legal ownership over the same.
40. As such, the legality of the original property known as Eldoret Municipality Block 6/231 in the name of the Applicant herein was confirmed to be the lawful owner of the said property.
41. Based on this understanding, this Court is of the considered view and finding that the Respondent herein whose cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants is based on the ownership of Eldoret Municipality Block 6/302 which is one of the cancelled sub-divisions litigated upon in the proceedings known Eldoret Environment & Land Court Case No. 275 of 2012 and the Appeal known as Eldoret Court of Appeal No. 240 of 2019 cannot be sustained in law.
42. As regards the second cause of action against the Applicant herein, the Respondent is seeking for compensation for the unlawful demolition undertaken by the Respondent on the property known as Eldoret Municipality Block 6/302.
43. However, looking at the Order issued on the 18.09.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012, the Respondent's property known as L.R. No. Eldoret Municipality Block 6/302 had been declared illegal and incapable of bestowing any ownership rights on the same.
44. In the same Judgement pronounced on the 18.09.2019 in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012, the Court did Order as follows; -
- “A declaration was made that the Plaintiff is the registered proprietor as Lessee from the Government of Kenya over the property known as Eldoret Municipality Block 6/231 and is entitled to immediate possession and use thereof to the exclusion of the 1<sup>st</sup> Defendant or anybody else.”
45. The above Order made in the Judgement pronounced on the 18.07.2019 was further supported by the following Order; -
- “A permanent injunction do issue against the 1<sup>st</sup> Defendant itself, its servants, agents or representatives or any other person howsoever acting on its behalf from occupying or remaining in occupation, possession or in any way whatsoever trespassing on the property known as Eldoret Municipality Block 6/231.”
46. Looking at these two Orders issued on the 18.07.2019, it is clear that the 1<sup>st</sup> Defendant who was the owner of Eldoret Municipality Block 6/306 and all other persons including the Respondent herein who was the owner of Eldoret Municipality Block 6/302 were directed to yield vacant possession immediately.
47. Further to that, the persons who was in occupation of the property known as Eldoret Municipality Block 6/231 through the sub-divisions known as Eldoret Municipality Block 6/301, Eldoret Municipality Block 6/302 and Eldoret Municipality Block 6/306 were permanently prohibited by way of an Injunction from interfering with the possession and occupation of the Respondent.
48. As such, the Court is of the considered view and finding that the ownership and legality of the property known as Eldoret Municipality Block 9/302 between the Applicant and the Respondent was settled in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012 which did



further direct that the Applicant was the only lawful person to be in the property known as L.R. No. Eldoret Municipality Block 6/231.

49. Consequently, the cause of action seeking for compensation against the demolition by the 3<sup>rd</sup> Defendant after the Judgement pronounced on 19.07.2019 cannot stand.
50. The third and last cause of action was against 4<sup>th</sup> and 5<sup>th</sup> Defendants herein.
51. The Respondent in the Plaint under litigation is seeking compensation by the 4<sup>th</sup> and 5<sup>th</sup> Defendant for issuing them with an illegitimate title or ownership document relating to the property known as L.R. No. Eldoret Municipality Block 6/302.
52. The Respondent is of the view that he had legitimate expectation upon the issuance of the Certificate of Lease in relation to the property known as L.R. No. Eldoret Municipality Block 6/302 to hold lawful and valid ownership.
53. Unfortunately, the Certificate of Lease issued by the 4<sup>th</sup> and 5<sup>th</sup> Defendants herein was declared illegal and annulity by the Judgement pronounced on the 18.07.2019 in the proceedings known as Eldoret Environment & Land Court Case No. 275 of 2012.
54. It is not in contention that the Respondent herein was registered as an owner of the property known as Eldoret Municipality Block 6/302 by the 4<sup>th</sup> and 5<sup>th</sup> Defendants.
55. According to the Plaint under litigation by the Respondent, he had been given a Certificate of Lease relating to the property known as L.R. No. Eldoret Municipality Block 6/302 which in his view had followed the procedures and requirements prescribed in law.
56. Consequently, the 4<sup>th</sup> and 5<sup>th</sup> Defendant have an obligation to explain why and how the Respondent's ownership documents relating to the property known as L.R. No. Eldoret Municipality Block 6/302 came out to be illegal and annulity as found in the Judgement pronounced on 18.07.2019.
57. The Respondent's cause of action against the 4<sup>th</sup> and 5<sup>th</sup> Defendants is therefore justified and should heard on merit.

**Issue No. 2- Whether the further amended plaint dated 09.07.2024 is an abuse of the court process against the applicant and the other Defendants?**

58. The second issue for determination is whether the present suit is an abuse of the Court process as against the Applicant herein and the other Defendants herein.
59. Based on the Orders issued on the 18.07.2019 in the suit known as Eldoret Environment & Land Court Case No. 275 of 2012, both the issues of the legality of the property known as L.R. No. Eldoret Municipality Block 6/302 and the occupation of the same was determined therein.
60. The Respondent's occupation and use of the property known as Eldoret Municipality Block 6/231 belonging to the Applicant through the illegal and cancelled title known as Eldoret Municipality Block 6/302 was in contravention of the Judgement pronounced on the 18.07.2019.
61. In fact, the Applicant herein had been given an Order to take immediate possession of the entire L.R. No. Eldoret Municipality Block 6/231 on the 18.07.2019.
62. As such, the Respondent's claim of compensation for demolition of various structures within Eldoret Municipality Block 6/231 based on the cancelled title to L.R. No. Eldoret Municipality Block 6/302 is an abuse of the Court process as it had no ownership rights of the land in question sanctioning their occupation thereof.



63. Similarly, the Respondent's cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants is an abuse of the Court process as the title known as Eldoret Municipality Block 6/302 which is what establishes his ownership rights was canceled on the 18.07.2019 by the Judgement in the proceeding known as Eldoret Environment & Land Court Case No. 275 of 2012.
64. However, the Respondent's cause of action against the 4<sup>th</sup> and 5<sup>th</sup> Defendant is not an abuse of the Court process and should proceed for hearing.

**Issue No. 3 - Whether the present Application is merited or not?**

65. Based on the findings in Issue No. 1 and 2 hereinabove, this Court is of the considered view that the present Application is partially merited.
66. The present Application succeeds in favour of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants only.
67. As for the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Defendants, the cause of action by the Respondent should go for full hearing.

**Issue No. 5 - Who shall bear the costs of the Application?**

68. On costs, the Respondent is condemned to pay costs of this present Application to the Applicant only.

**Conclusion: -**

69. In conclusion, the Court hereby makes the following Orders in determination of the present Application; -
- a. The Notice of Motion dated 10.07.2025 is partially merited.
  - b. The Plaintiff/Respondent herein has not established any causes of action against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendant/applicant herein.
  - c. The Plaintiff's/Respondent's causes of action against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendant/applicant herein are an abuse of the court process.
  - d. The Plaintiff's/Respondent's has established a cause of action against the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants herein capable of going for a full hearing.
  - e. The causes of action & names of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants pleaded by the plaintiff/respondent be and are hereby struck out forthwith for being an abuse of the court process.
  - f. The Plaintiff's/Respondent's causes of action against the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> defendants be retained and proceed for full hearing.
  - g. The Plaintiff/Respondent is condemned to pay costs of the present application to the 3<sup>rd</sup> defendant/applicant only.

**DATED, SIGNED AND DELIVERED AT ELDORET THIS 9<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**EMMANUEL.M. WASHE**

**JUDGE**

In the presence of:

Court Assistant: Brian

Counsel for the Applicant: Mr. Songok for 3<sup>rd</sup> Defendant/Applicant



Counsel for the Respondent: Mr. Evayo holding brief for Mr. Sisula for the 1<sup>st</sup> Defendant  
Mr. Oduor for the Plaintiff/Respondent

