



REPUBLIC OF KENYA



KENYA LAW
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**Waqf Commissioners of Kenya v Koenecke & 11 others (Environment and Land
Case E030 of 2024) [2026] KEELC 544 (KLR) (4 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 544 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND CASE E030 OF 2024
FM NJOROGE, J
FEBRUARY 4, 2026**

BETWEEN

WAQF COMMISSIONERS OF KENYA PLAINTIFF

AND

**PETER GEORGE HEINRICH KOENECKE & 11 OTHERS & 11
OTHERS DEFENDANT**

RULING

1. In the application dated 11th August 2025 the plaintiff seeks the following orders:
 - a. That the court do extend time to the plaintiff to file the present application;
 - b. That the plaintiff be granted leave to amend their plaint as set out in the draft amended plaint herein annexed;
 - c. That the draft amended plaint be deemed duly filed and served;
 - d. That the cost of the application be in the cause.
2. The application is supported by the affidavit of Ibrahim Mohamed Bulushi, the plaintiff's secretary. It is deponed that the 21 days granted by the court to regularize or amend pleadings lapsed on 19th June 2025. Reasons for the delay in filing the present application have been given in the affidavit. They are that counsel for the plaintiff proceeded on paternity leave in May 2025, and since his is sole proprietorship business, and due to the nature of the proceedings herein, he could not assign or give instructions to other advocates in other law firms to prepare the application for leave to file the amended plaint. The deponent himself had traveled to China and only resumed duties on 4th August 2025. For those reasons, it is stated that the delay in filing the application is not inordinate, but going to the expiry of the timelines set by the court, there is need for extension of time; that the proposed amendment



will not prejudice the defendants but will enable Court to determine the real questions or issues in controversy so that the same may be litigated upon.

3. The 1st, 2nd, 3rd, 4th, 5th, and 9th defendants filed grounds of opposition dated 6th November 2025 in response to the application. The grounds are as follows:
 - a. The application is defective for reliance on Order 50 Rule 5 CPR which is not the correct order and rule;
 - b. The applicant failed to lodge its application within the prescribed time frame yet no sufficient reasons were given for the delay;
 - c. The application, taken in conjunction with other proceedings in this action, depicts the plaintiff as lacking readiness prosecute its own case, and as filled with confusion as to the kind of case it intends to prosecute;
 - d. That counsel's inaction in the matter is insufficient to facilitate the seeking of extension of procedural timelines;
 - e. Counsel should have instructed another counsel to make the application instead of subjecting the matter to delay;
 - f. The absence of the secretary to the plaintiff does not by itself constitute a justifiable reason for failure to seek amendment of the plaint within the timeline provided, and in any event the plaintiff is a statutory body and the Secretary is not the only official can be authorized to swear on behalf of the plaintiff;
 - g. That indulging the plaintiff further would be in contravention of the principles of expeditious, efficient, and proportionate disposal of civil proceedings are set out in sections 1A and 1 B of the Civil Procedure Act.
 - h. That the cumulative conduct of the applicant amounts to abuse of the court process and undermines the need for certainty and order litigation;
4. The defendants prayed that the application be dismissed with costs.
5. The 10th defendant chose not to participate in the application while the rest of the defendants failed to respond to it.
6. On 24th September 2025, this court ordered parties to file submissions on the motion. Only the 1st, 2nd, 3rd, 4th, 5th, and 9th defendants filed submissions, which I have perused and which are only a slight elaboration of their grounds as set out here in above.
7. The submissions of the 1st, 2nd, 3rd, 4th, 5th, and 9th defendants however are not indicative of any objection to the substance of the amendments sought and are directed against the delay in filing of the application and the apparent dilly-dallying on the part of the plaintiff in handling of his case.
8. I have considered the grounds given in the supporting affidavit. The reason given by the plaintiff's counsel for his failure to act in good time is sound and in view of the annexures that he has exhibited, it cannot be doubted. As counsel has given a good ground for his failure to act within the required time and the client was relying on his services, the plaintiff is also excused and cannot be held to suffer for the omission of his counsel in this particular case.
9. Further, I have examined the proposed amendments and in this court's view they should be allowed. Consequently, I allow the application in terms of prayers number 1, and 2 thereof.



10. The costs of the application shall be borne by the plaintiff who has charge of his case and who is the one determining who to sue and who to drop from the case.
11. The draft amended plaint shall be served upon all the other parties within 7 days of this order. The matter shall be mentioned on 14th April 2026 for pretrial.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MALINDI ON THIS 4TH DAY OF FEBRUARY 2026.

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

