

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ELC NO. E041 OS OF 2015

AMRI KHAMIS
PLAINTIFF

OMARI KHAMISI
.....**PLAINTIFF**

VERSUS

SILVESTER CHIBO MWAROME
.....**DEFENDANTS**

RULING

1. The Chamber Summons application dated 7th October 2025 is seeking and order that the OCS Kenya Police Station be ordered to give police escort security and protection and or assistance to Jonathan Maingi T/A Belpoint Auctioneers in place of OCS Kilifi Police Station in execution of the court order dated 17th June 2025. The grounds upon which the application is made is that the OCS Kilifi Police Station lacks jurisdiction to effect or implement the orders dated 7th June 2025 and those orders should be directed to the OCS Ngerenya Police Station.
2. The application is opposed by the respondent in his affidavit dated 14th November 2025 as well as opposition dated 28th of October 2025. The grounds upon which the application is opposed are that the applicant is seeking to sanitize his illegal activities of 18th September 2025, on which date the respondent alleges that the applicant sent armed goons to attack the respondent's family on the suit property without any warrants of eviction, thus flouting the law; it is stated that the alleged attack is currently under active criminal investigations, and that the present application amounts to perjury, contempt of court, and interference with ongoing criminal proceedings.
3. With all due respect, I do not see how the kind of defence raised by the respondent in the present application can aid him against

whom judgment has been passed and who lacks any stay of execution order. The application before me is not regarding substance of the dispute, the suit having been concluded long ago and a decision made, but the procedure of execution only. The matter was heard on its merits and judgment delivered. On 17th June 2025, I observed that earlier on, an order had been issued that the OCS Kilifi Police Station be ordered to give police escort, security, protection, and assistance to John Kameta t/a Kameta Enterprises for execution of the orders of court in this matter. What the applicant is saying in the present application is that the station having jurisdiction is Ngerenya and not Kilifi, and the order should be directed to Ngerenya. At the moment, this court, being a civil court, is not concerned with nor seized with jurisdiction in respect of, matters raised by the respondent regarding alleged nefarious activities of the applicant, if any. Those matters can be addressed by the relevant law enforcement agencies or the proper court appropriately. What matters at this point is that this suit ended up in a judgment against the respondent in favour of the applicant and the law is that a judgment creditor is entitled to the fruits of his judgment. Furthermore, the response of the respondent assures this court that he is aware that he ought to vacate the premises to avoid eviction, this court having deferred proceedings on 23/10/2024 for his sake, that he be served. It is also necessary that litigation comes to an end. On 17th June 2025 this court stated as follows in a ruling to set aside judgment filed by the respondent:

“10. Gazette Notice number 6761 of 10th June 2022 is in the court file showing that the intention to have the land registered in the names of the plaintiffs as ordered by this Court was gazetted on that date. From the following: a copy of the application for Land Control Board Consent, copy of the consent dated 9th February 2023 and a copy of the transfer of interest in land to Amri Hamis the first plaintiff, and a copy of the title deed in his name, which are all retained in the court file, it is apparent that the Deputy Registrar of

this court pursued registration of the suit land in the plaintiff's name to conclusion.

11. Having considered all the documentation inside the court file I find that the plaintiffs served the defendant in the proper manner and the defendant acknowledged receipt of summons in this suit through an advocate while abroad, and no step was skipped in the prosecution of this case. Service upon the defendant abroad is allowed by the rules. In this court view all that matters in this case is that summons reached the defendant and that he acknowledged them. That was proper service. This court thus finds that the defendant received the summons and plaint. It was for the defendant to file appearance and defense through that advocate and not to indicate to the court that he would attend to suit at his own pleasure. If business of the court was conducted in that manner it is doubtful that any reasonable amount of litigation would ever be concluded in any year."

4. It now being time for execution of judgment and in the absence of any order of stay of execution, I find no ground upon which to deny the orders the applicant seeks in the application dated 7th October 2025, and I hereby grant the application in terms of **prayer no 2** thereof.

Dated, signed and delivered at Malindi this 26th day of February, 2025.



**MWANGI NJOROGE
JUDGE, ELC, MALINDI**