

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KISII

ELCC NO. 501 OF 2016

SAMWEL KENANI OMWANDO PLAINTIFF

VERSUS

CHARLES MAGETO & 3 OTHERS DEFENDANTS

RULING

1. What is before me is an application dated 1 December 2025 filed by Samwel Kenani Omwando, the plaintiff herein, seeking my recusal from further hearing of this suit.
2. The application was argued substantively on 10 December 2025 and I reserved ruling for today, i.e 3 March 2026. In the meantime, there have been a significant change of circumstances, for I was appointed a Judge of the Court of Appeal and sworn in on 27 January 2026. My only pending task before the Environment and Land Court is to deliver the judgments and rulings that I had reserved, this being one of them.
3. Given my appointment to the Court of Appeal, it is apparent to me that this application has now been overtaken by events. I had not reserved this matter for judgment before myself, and irrespective of the decision that I make, inevitably the case will have to be concluded by the Judge who has taken over the mantle of Judge of the Environment and Land Court in Kisii.

Assuming I dismiss the application, I will still not proceed with the matter as I am now in the Court of Appeal. This is not among the cases that I had reserved for judgment before my appointment to the Court of Appeal so that I can continue with it.

4. For the above reasons, the application is declared to have been overtaken by events and it is pointless to make a substantive decision on it.
5. It is struck out for reason that it is now moot.
6. There will be no orders as to costs.
7. Orders accordingly.

DATED AND DELIVERED THIS 3RD DAY OF MARCH 2026

JUSTICE MUNYAO SILA
ENVIRONMENT AND LAND COURT

AT KISII

Delivered in the presence of :

Ms. Kebungo for the 1st & 2nd defendants - Present

Plaintiff acting in person – Absent

Attorney General for the 3rd & 4th defendants - Absent