

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI
ELC PETITION NO. 15 OF 2019
IN THE MATTER OF: ARTICLE
1,2,3,10,21(1),22,223,28,29,35,40,42,43(1)(d),48,70,159(1),165 AND 258(1)(2)
(d) OF THE COSNTITUTION OF KENYA, 2010

AND

IN THE MATTER OF: SECTION 2,108,109 AND 111 OF THE
ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT

1999

AND

IN THE MATTER OF: SECTION 159 FO THE PETROLEUM ACT

AND

IN THE MATTER OF: RULE 4 OF THE ENVIRONMENTAL
MANAGEMENT AND COORDINATION (WATER QUALITY)

REGULATION

AND

IN THEMATER OF: RULE 4,8,10,11,13,14,20,21 AND 22 OF THE
COSNTITUTION OF KENYA (PROTECTION AND FUNDAMENTAL
FREEDOM) PRACTICE AND PROCEDURE RULES 2013

BETWEEN

THANGE RIVER BASIN RESIDENT’S ASSOCIATION (Suing on behalf
of the Residents of River Thange Basin, Kibwezi Makueni

County).....	1ST PETITIONER
RUFUS MULATYA MUATHE.....	2ND PETITIONER
BENSON MAINGI.....	3RD PETITIONER
MIKE MUNUVE MUSILA.....	4TH PETITIONER
JACKSON NZOMO MUINDI.....	5TH PETITIONER
JOHN NYAMAI MUATHA.....	6TH PETITIONER
ANTONY KITONGA JAMES.....	7TH PETITIONER
JEREMIAH MUINDE NYAMAI.....	8TH PETITIONER
BENDETAH MWENDEA.....	9TH PETITIONER
NDUKU MWANGANGI.....	10TH PETITIONER
MBITHI MWATU.....	11TH
PETITIONER	
KYALO MUTUA.....	12TH
PETITIONER	
MUSYOKI MWATU.....	13TH
PETITIONER	
GEORGE KYALO KAVUU.....	14TH PETITIONER
NDUGWA RUFUS.....	15TH PETITIONER
JOYCE NTHENYA MULWA.....	16TH PETITIONER
HARON MUSYOKA MUINDI.....	17TH PETITIONER

SISQO AMBROSE MUINDI.....	18 TH PETITIONER
PAUL MULILI MAILLU.....	19 TH PETITIONER
RICHARD KAMUTI MUNGU'UTU.....	20 TH PETITIONER
FATUMA NDUNGE MWANGANGI.....	21 ST PETITIONER
MICHAEL KAMULA MALII.....	22 ND PETITIONER
MOSES WAMBUA PETER.....	23 RD PETITIONER
KENNETH KILEWA NZIOKI.....	24 TH PETITIONER
KIOKO NZEMBEI.....	25 TH PETITIONER
MUASYA NZIOKA.....	26 TH PETITIONER
TAABU KISAMBO.....	27 TH PETITIONER
VERNICA MWIKALI KATILI.....	28 TH PETITIONER
MARIETA KANINI MUTISO.....	29 TH PETITIONER
DANIEL WAMBUA KIMIZA.....	30 TH PETITIONER
GRACE PETER.....	31 ST PETITIONER
PETER NTHANGA JOHN.....	32 ND PETITIONER
JOHN KASIMU NDUKU.....	33 RD PETITIONER
AGNES NTHENYA MUNYAO.....	34 TH PETITIONER
MUTISYA NGIE.....	35 TH PETITIONER
JOYCE KIAMBA.....	36 TH PETITIONER
JOHN KYULE.....	37 TH PETITIONER
MWANZIA MULI.....	38 TH PETITIONER
NICODEMUS MULI.....	39 TH PETITIONER
SUSAN MULI.....	40 TH PETITIONER
URBANUS MUSAU MUYU.....	41 ST PETITIONER
MARY MWIKALI.....	42 ND PETITIONER
MWANZA KAMUTI.....	43 RD PETITIONER
ALEX MUTUA KAMUTI.....	44 TH PETITIONER
NAOMI KAIU MUTUA.....	45 TH PETITIONER

-VERSUS-

KENYA PIPELINE COMPANY LIMITED.....	1 ST RESPONDENT
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA).....	2 ND RESPONDENT
CABINET SECRETARY, MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY.....	3 RD RESPONDENT
CABINET SECRETARY, MINISTRY OF HEALTH....	4 TH RESPONDENT

RULING

1. This is a ruling in respect of an Originating Summons dated 19th May, 2025 in which the Applicants are seeking an order compelling the firm of Maanzo & Co. Advocates to deliver all pleadings, title deeds, claim forms, discharge vouchers crops documents, regional termination notices, list of 396 persons inclusive of the representatives of the petitioners households. They also seek that the firm of Maanzo & Co. Advocates do pay the costs of this application.
2. The Applicants contend that they filed a notice of withdrawal of the petition and notice of delivery of documents which they served upon the firm of Maanzo & Co. Advocates but that the firm of Maanzo & Co. Advocates have declined to release the documents to enable them to file an independent petition.
3. The Applicants state that they have already withdrawn instructions from the firm of Maanzo & Co. Advocates and have since instructed the firm of Muriithi S. Kiragu & Co. Advocates. They contend that failure by the firm of Maanzo & Co. Advocates to deliver the documents to them is curtailing their right to fair hearing as provided under Article 50 of the Constitution.
4. They further state that withholding of the documents by the firm of Maanzo & Co. Advocates is limiting their constitutional rights under Article 25c of the Constitution.

5. The deponent of the supporting affidavit contends that he had been given authority to plead on behalf of the other Applicants. The Applicants have lost faith in the firm of Maanzo & Co. Advocates.
6. The Applicants' application was opposed by the Respondent through a replying affidavit sworn on 4th July, 2025. The affidavit was sworn by Mike Munuve Masila and Jackson Nzomo Muindi who state that they are part of the petitioners in this petition and that they did not authorize Rufus Mulatya Muathe to withdraw instructions from the firm of Maanzo & Co. Advocates.
7. The Respondents state that signatures on the notice of withdrawal of the petition are forgeries. They state that there were no original documents which were handed over to the firm of Maanzo & Co. Advocates as it was only photocopies which were handed over to the firm.
8. The Applicants state that they have never met with any of the Advocates from the firm of Muriithi S. Kiragu & Co. Advocates and that Rufus Mulatya Muathe has no authority to plead on their behalf. They state that the firm of Maanzo & Co. Advocates has spent a lot of money on the petitioners.
9. In a further affidavit sworn on 17th July, 2025 the Applicants state that the deponent to the supporting affidavit has authority to plead on behalf of the Applicants which authority has not been revoked. The Applicants state that the deponents of the replying affidavit have not formally instructed the firm of Maanzo & Co. Advocates in compliance with Order 9 Rule 5 of the Civil Procedure Rules.
10. In a further affidavit sworn on 25th July, 2025, the Respondents through Mike Munuve Masila and Jackson Nzomo Muindi state that they met Rufus who caused them meet an advocate called Musembi Ndolo who attempted to persuade them from withdrawing instructions from Maanzo & Co. but that they refused. They state that Rufus has been secretly meeting the said advocate based in Nakuru and that the advocate who operates under the

name of Muriithi S. Kiragu was once working under the firm of Musembi Ndolo.

11. The Applicants filed their submissions dated 18th September, 2025. The Respondents filed their submissions dated 27th October, 2025. I have carefully considered the Applicants' application, the opposition thereto by the Respondents as well as the submissions by the parties. The only issue for determination is whether this court should make an order compelling the firm of Maanzo & Co. to deliver the documents which the Applicants are seeking.
12. There is no doubt that the relationship between the Applicants and the firm of Maanzo & Co. Advocates has irretrievably broken down. The Applicants had withdrawn their instructions in writing and subsequently filed a notice of intention to act in person after which they appointed the firm of Muriithi S. Kirageu & Co. Advocates to act for them.
13. There is no doubt that an advocate who has acted for a client who has withdrawn instructions is entitled to his costs. The firm of Maanzo & Co. Advocates has exercised this right by filing an advocate/client bill of costs which is yet to be taxed.
14. The firm of Maanzo & Co. Advocates have relied on the case of **Boot Extrusions (formerly Booth Manufacturing Africa Ltd) –vs- Dumbeiyia Nelson Muter Harun t/a Nelson Harun & Co. Advocates (2021) eKLR** where it was stated as follows:

“A review of case law in the context of an advocate – client relationship, will reveal that there is the general lien which confers upon the advocates the right to retain all papers, money or other chattel the property of their client which came into possession of the advocates as their clients' advocate until all the costs and charges due to the advocates are paid. The lien is general and not restricted to costs owing in respect to the property which respect to the property

which the client is claiming possession. It is simply a retaining lien premised upon the advocate having actual physical possession of the property the subject of the lien. The policy underlying liens briefly put is that it would be unfair for a party to enjoy the result of an advocate's work without paying the advocate and then let the advocate seek payment elsewhere when payment could be easily gathered through the lien. Consequently, an advocate having a retaining lien over documents in her or his possession is entitled to remain the documents against the client until the full amount of his costs is paid".

15. In as much as the applicants have a right to representation of a lawyer of their choice, equally an advocate who has previously acted for that client is entitled to remuneration for services rendered. As was clearly stated in the case of *Boot Extrusions (Supra)* the firm of Maanzo & Co. Advocates have alien over the documents held by them until their costs are paid. It is for this reason that I find that the Applicants' application is devoid of merit. The same is dismissed with costs to the Respondent.

It is so ordered.

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HON. E. O. OBAGA

JUDGE

RULING DATED SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 12TH DAY OF MARCH, 2026.

IN THE PRESENCE OF:

Mr. Maanzo, Mr. Hassan and Mr. Mbulu for Petitioners.

Mr. Odongo for 3rd to 6th Respondents.

Ms. Kauria for Mr. Ngala for 2nd Respondent.

Mr. Muriithi for some petitioners.

Mr. Mugun for 1st Respondent.

Court assistants – Musyoki and Nyaanga

ORIGINAL