REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT MOMBASA

COUNTY COURT NAME: MOMBASA ENVIRONMENT AND LAND COURT

CASE NUMBER: ELC/52/2019

MARGARET AKOTH OLANG VS LUCAS NUAGA & OTHERS

RULING

The applicants' Case
The applicants, Timbwani Baptist Academy and Timbwani Junior Secondary School suing through the Chairperson/Secretary has come to court seeking orders that this Honourable Court recognize and enjoin Timbwani Baptist Academy, Timbwani Baptist Primary School, Timbwani Junior Secondary School, and Timbwani Nursery School as interested parties in this application, and allow them to be represented and heard, given the imminent threat of eviction.

They further seek an order that this honourable Court be pleased to reopen and/or review the proceedings arising from the judgment of 15th October 2025, for the limited purpose of allowing the Applicant, 14th Defendant and Timbwani Baptist Church to place before Court title documents, allotment letters, and survey plans distinguishing Land Reference No. Mombasa/Block I/ MS/ 1750 from Land Reference No. Mombasa/Block I/ MS/ 1668.
That the judgment delivered on 15th October 2025 be set aside to the extent that it affects the Defendants, including the 14th Defendant, in respect of the adjacent property Mombasa/B10ck I/ MS/ 1750, and that the Defendants be granted leave to file a defence out of time, within such period as the Court may deem just and appropriate.
In the alternative, the applicant prays that this Honourable Court does issue such further directions as may be necessary, including directions on survey, boundary clarification, or joinder, to prevent further prejudice to innocent third parties and ensure proper execution. Costs be in the cause.
The application is based on grounds the judgment delivered on 15th October 2025 specifically relates to Mombasa/Block I/ MS/ 1668, a clearly defined parcel, and the execution thereof should have been confined to that property. However, the Plaintiff has now activated execution in a manner that

unjustifiably extends to Mombasa/Block I/ MS/ 1750, a separate and lawfully owned parcel, which houses Timbwani Baptist Academy, Timbwani Baptist Primary School, Timbwani Junior Secondary School, and Timbwani Nursery School. The fact that execution is being extended to an entirely distinct property not litigated in this matter demonstrates gross misapplication of the

judgment, creating a real and imminent risk of unlawful dispossession, destruction, and interference with the lawful operations of the school.
The schools have been in continuous operation since 1992, serving the local and surrounding communities, particularly underprivileged children, and are lawfully registered under Title No. Mombasa/Block I/ MS/ 1750. They have consistently maintained operational standards, adhered to government regulations, and remain under the legal and moral stewardship of Reverend Ernest Ombeva, the 14th Defendant, who is also the Church Reverend and authorized representative of the institutions. For over thirty years, the schools have developed infrastructure, acquired resources, and built a community of learners, teachers, and staff. The current threat of eviction and demolition is therefore not only shocking to the school administration but also constitutes an attack on longstanding public service institutions that have contributed significantly to education in the region.
The schools, through the 14th Defendant as their authorized officer, are extremely apprehensive that the attempted execution is being premised on the misidentification of property ownership, as the 14th Defendant is not the owner of the judgment property, and yet the Plaintiff seeks to treat the school's land as if it were part of the judgment.
This confusion is heightened by the fact that the 1st Defendant resides on MS/ 1750, the same parcel as the school, and not on MS/ 1668, and the actual judgment property. The schools fear that without immediate intervention, the Plaintiff, possibly assisted by police officers from Likoni Police Station, will unlawfully demolish school buildings, displace learners, and interfere with ongoing academic activities. This represents a profound and urgent risk to the life, safety, and welfare of minors, which cannot be remedied retrospectively.
Eviction and demolition of the schools would gravely prejudice the rights of innocent children, teachers, and staff, particularly violating their constitutional right to education under Article 53(1)(b) and their right to a safe learning environment.
The schools were never parties to this suit, were never served, and were never heard on any aspect of the judgment or execution proceedings. Execution against them, therefore, is unlawful, unconstitutional, and contrary to the principles of natural justice, which require that affected parties be heard before being dispossessed or having their property interfered with. The courts must ensure that innocent third parties do not suffer harm due to legal mistakes, misrepresentations, or procedural oversights in the original suit.
The schools are currently operational, with the 2026 academic year fully underway, and learners physically attending classes. Forced eviction or demolition would result in immediate and irreparable disruption of learning, displacement of minors, destruction of infrastructure, and harm to the school community, including teachers, administrative staff, parents, and donors. The cumulative impact of such harm is irreparable, and no monetary compensation or subsequent rectification could restore the educational, psychological, and social losses that the children and school community would incur.
The balance of convenience overwhelmingly favors preserving the status quo pending clarification of land boundaries and ownership rights. The school has existed for over three decades as a lawfully established and recognized

educational institution, and its disruption would not only affect the immediate learners but also undermine the public interest in the provision of education to underprivileged children. In contrast, the Plaintiff's alleged risk of delay in executing the judgment can be addressed through judicial supervision without causing irreparable harm to innocent third parties.
Given that the 1st Defendant resides on MS/ 1750, the same parcel as the schools, and not on MS/ 1668, the proceedings appear to be procedurally flawed, misdirected, and based on inaccurate representations of property ownership. The schools are therefore extremely apprehensive that they

are at risk of being wrongfully affected by orders directed at a different property, which they have lawfully owned and maintained since 1992. The entire process, if allowed to continue without urgent judicial intervention, could be described as a sham execution, whereby innocent parties bear the consequences of legal mistakes or misrepresentations.

This application is not intended in any way to undermine or negate the judgment delivered on 15th October 2025. Rather, it is made to bring before this Honourable Court the full and true circumstances surrounding the property on which Timbwani Baptist Academy, Timbwani Baptist Primary School, Timbwani Junior Secondary School, and Timbwani Nursery School operate, so that the Court can appreciate the lawful ownership, the long-standing existence of the schools, and the serious implications of executing orders without full knowledge of the facts. The schools have been in continuous operation since 1992, serving the community, particularly underprivileged children, and the property is lawfully owned by Reverend Ernest Ombeva, the 14th Defendant. Execution of the current orders, without a clear understanding of boundaries and ownership, would inevitably result in irreparable harm to the learners, teachers, staff, and the wider community that relies on these institutions.

This application therefore seeks to allow the Court an opportunity to fully reconsider the situation, including the proper identification of the judgment property versus the schools' land, to ensure that the enforcement process does not inadvertently affect innocent parties. The urgency of this application is heightened by the fact that the schools are fully operational, the 2026 academic year has commenced, and any delay in resolving this matter risks disrupting learning, destroying infrastructure, and causing harm that cannot be undone, making immediate intervention both necessary and just.

The respondents Case

The respondent filed a replying affidavit stating the applicant, is the 9th defendant in the suit herein, which has already been heard and determined. He is also the person behind the proposed interested party and therefore having been parties to the suit and participated in the proceedings, they cannot seek to seek aside the judgement herein.

The respondent contends that an application for review of the judgement, setting aside the judgement and joinder of parties cannot subsist simultaneously hence the omnibus application is incompetent and incurably defective and amounts to an abuse of the court process.

That the applicants have always been aware of the judgement as they were represented by an advocate. No attempt whatsoever has so far been made towards execution of the court decree hence the interested party is lying when it says there is an attempt at evicting it Indeed, it offers no evidence at all in support of the allegation. Indeed, the costs have not been taxed so that warrants can issue.

That the order given by the court affects the respondent’s Plot No. MOMBASA/BLOCK I/MS 1668 which is her only parcel of land at that place and that she does not intend to execute it on any other land. That it's patently clear that the 9th defendant and the proposed interested party are all synonymous with each other as the 9th defendant deposes that he is the authorized officer overseeing the operation of the interested party. The 9th

and 14th defendants cannot purport to litigate on the same issues in different capacities. The allegation they made while hiding under the interested party are thus res judicata. That it's apparent that suit number MOMBASA/BLOCK HMS/ 1750 which they cite above is not the subject proceedings in the current case. That if that parcel of land MOMBASA/BLOCK HMS/ 1750 has any dispute which I am not aware of, the remedy will be the filing of a suit concerning the same and seeking substantive orders therein. That no grounds for review as set out in Section 80 of the Civil Procedure Act have been disclosed in the Notice of Motion or supporting affidavit hence application for review lacks merit.
Courts' Directions

This matter came up for directions on 26th January 2026 when the court directed the applicant to file and serve submissions within 3 days and the respondent to file and serve submissions within 3 days of service. The applicant has not filed and served submissions todate.

Respondents Submissions

The respondent submits that the applicant has not established the threshold for joinder of a party to proceedings. She argues that for a party to be joined in proceedings, the principles set out in Kamau V Kamau & another' Kihun i Intended Interested Part Environment & Land Case El 14 0 2024) (2024) KEELC 7215 (KLR) (31 October 2024) must be satisfied.

In that case the court stated;-

"The principles for joinder of an Interested Party in a suit are now well settled. The Supreme Court in the case of Francis Karioki Muruatetu & Another Vs. Republic & 5 Others as consolidated with 16 of 2013; [20161 eKLR which set down the principles of joinder that;

"(37) From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

One must move the Court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:

The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.

b. The prejudice to be suffered by the intended interested party in case of non-joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.

c. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court. "

The respondent cites the earlier case of Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 Others [20141 eKLR affirmed where the apex court affirmed that; "(22) In determining whether the applicant should be admitted into these proceedings as an Interested Party we are guided by this Court's Ruling in the Mumo Matemo case where the Court (at paragraphs 14 and 18) held:

"[An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...

(23) Similarly, in the case of Meme v. Republic, [20041 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:

"(i) Joinder of a person because his presence will result in the complete settlement of all the questions involved in the proceedings;

(ii) Joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;

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(iii) Joinder to prevent a likely course of proliferated litigation.
The respondent argues that it's apparent that the proposed interested party does not state that it has any interest in the subject suit property thus Land Parcel Mombasa/Block I/MS/1668. The proposed interested party is also said not to be the owner of the applicant property viz Land Reference Number Mombasa/Block I/MS/1750. It's deponed and pleaded in the application that the 9th and 14th defendant is the owner and thus is there were any objections to be raised in the court,

they should have been raised by the 9th or 14th defendants during the trial. By failing to do so, the issue if now res judicata as stated in Greenfield Investment Limited Vs Baber Alibhai Mawii (2000) eKLR where the court of appeal held:-

"Dealing with the aspect of res ju dicata wherein it becomes an abuse of the process to raise in subsequent proceedings matters which could and therefore should have been raised in earlier proceedings, Wigram, V. - C. in Henderson v. Henderson, (1843) 3 Hare 100, 115 had this to say:

Where a given matter becomes the subject of litigation in, and of adjudication by, a court of competent jurisdiction, the court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of res judicata applies, except in special cases, not only to points upon which the court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time.

The phrase "every point which properly belonged to the subject of litigation" quoted in the passage set out above was expanded in Greenhalgh v. Mallard, [19471 2 All E.R. 255, 257, by Somervell, L.J. in these terms:

. res judicata for this purpose is not confined to the issues which the court is actually asked to decide, but... it covers issues or facts which are so clearly part of the subject matter of the litigation and so clearly could have been raised that it would be an abuse of the process of the court to allow a new proceeding to be started in respect of them,

"and in Yat Tung Investment Co. Ltd, v. Dao Heng Bank Ltd. an d Another, [19751 A.C. 581, 590E, it was observed that:

The shutting out of a "subject of litigation" a power which no court should exercise but after a scrupulous examination of all the circumstances - is limited to cases where reasonable diligence would have caused a matter to be earlier raised; moreover, although negligence, inadvertence or even accident wilt not suffice to excuse, nevertheless "special circumstances" are reserved in case justice should be found to require the non-application of the rule. "

Thirdly, the respondent contends that this is a case that has already been concluded so the joinder of the proposed interested parties cannot be said to help the court in making a complete settlement of all the question involved in the suit. The issues are already decided and in any event the issues did not involve the Plot Number Mombasa/Block /I/MS/1750 as raised by the proposed interested party. It seems to be alleged by the 9th defendant on behalf to the proposed interested party that the plaintiff will execute the proposed decree against Plot Reference Number Mombasa/Block VMS/ 1750 and not the subject matter plot.

The respondent argues that in a situation where a decree is executed on a property belonging to a different party other than the property subject matter of the suit, the remedy to the party will not be to be joined as a an interested party, but to file Objection proceedings under Order 2 of the Civil Procedure

Rules.
The respondent cites the case of Arun C. Sharma -Vs- Ashana Raikundalia T/A A.Raikundalia & Co. Advocated & the Judge stated:-
"The law is clear; under Order 22 rule 51 (1) of the Civil Procedure Rules:
Any person claiming to be entitles to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the court and to all parties to the decree-holder, of

his objection to the attachment of such property.
The objector bears the burden of proving that he is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. Has the objector proved it is entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree?"
On the issue of marking or determination of the boundaries of the two parcels of land the respondent submits that , Section 18 (2) of the Land Registration Act 2012 deprive this court the original jurisdiction in dealing with a boundary dispute. Section 18 and 19 of the Act reads as herebelow:- "18. Boundaries
(1) Except where, in accordance with section 20, it is noted in the register that the boundaries of a parcel have been fixed, the cadastral map and any filed plan shall be deemed to indicate the approximate boundaries and the approximate situation only of the parcel.
(2) The court shall not entertain any action or other proceedings relating to a dispute as to the boundaries of registered land unless the boundaries have been determined in accordance with this section.
(3) Except where, it is noted in the register that the boundaries of a parcel have been fixed, the Registrar may, in any proceedings concerning the parcel, receive such evidence as to its boundaries and situation as may be necessary: Provided that where all the boundaries are defined under section 19 (3), the determination of the position of any uncertain boundary shall be done as stipulated in the Survey Act (Cap. 299)."
Section 19 of the same Act then
provides as "19. Fixed boundaries
(1). If the Registrar considers it desirable to indicate on a filed plan approved by the office or authority responsible for the survey of {and, or otherwise to define in the register, the precise position of the boundaries of a parcel or any parts thereof, or if an interested person has made an application to the Registrar, the Registrar shall give notice to the owners
and occupiers of the land adjoining the boundaries in question of the intention to ascertain and fix the boundaries.
(2) The Registrar shall, after giving all persons appearing in the register an opportunity of being heard, cause to be defined by survey, the precise position of the boundaries in question, file a plan containing the necessary particulars and make a note in the register that the boundaries have been fixed, and the plan shall be deemed to accurately define the boundaries of the parcel.
(3) Where the dimensions and boundaries of a parcel are defined by reference to a plan verified by the office or authority responsible for the survey of land, a note shall be made in the register, and the parcel shall be deemed to have had its boundaries fixed under this section. '
There is no evidence that the proposed interested party or the 9th or 14th defendant have made any such application to the registrar. They cannot purport to confer this court with the jurisdiction that the statute says lies elsewhere. There will be thus no need for joinder.
Lastly the respondent submits that the proposed interested party are not legal persons. They thus lack the capacity to sue and be sued in their names. They can only undertake such task through its officials who should be named. It's

not enough to state that they are coming in through an unnamed secretary, chairman or treasurer. The court cannot join a party that is not a juristic person into the case. The Civil Procedure Act and Rules don't provide for a joinder of an interested party to proceedings initiated vide a plaint. The application lacks the legal feet to sustain it.
On review of the judgment, the respondent submits that review is a very narrow jurisdiction and can only be exercised under the following circumstances set out in Alpha Fine Foods Limited Vs Horeca Kenya Limited & Others Nairobi HCCC No. El 19 of 2018 by Justice Mativo:»

"17. It cannot be denied that the review is the creation of the statute. The power of review is not an inherent power. It must be conferred by law or by necessary implication. An appraisal of the above provisions confirms that section 80 prescribes the power of review while Order 45 stipulates the rules. However, the rules limit the grounds for evaluating requests for review. Simply put, there are definite limits to the exercise of power of review. The rules prescribe the jurisdiction and scope of review. They limit review to the following grounds:

a) Discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or the order made or;

b) On account of some mistake or error apparent on the face of the record,

c) For any other sufficient reason and whatever the ground there is a requirement that the application has to be made without un reasonable delay.

18. The power of review can be exercised by the court in the event discovery of new and important matter or evidence which despite exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made. As the Supreme Court of India stated: -

"the power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for stabling it, It may be pointed out that the expression "any other sufficient reason" . means a reason sufficiently analogous to those specified in the rule"

19. The reason for the above limitation is that it is an indulgence given to a party to get the previous decision altered on the basis of discovery of important evidence which was not within his knowledge at the time of original hearing. So, in the fitness of things, a person, who relies on such circumstances to obtain a review, should affirmatively establish them. The latitude shown to a party by a court is conditional upon strict compliance with that requirement. '

The respondent submits that the application in its grounds and the supporting affidavit does not deal with any ground listed in Section 80 of the Civil Procedure Act Chapter 21 Laws of Kenya. Indeed, paragraph 15 of the supporting affidavit sets the reasons for the application as:-

"That the circumstances outlined herein justify the reinstatement of the matter or reopening of the case, so that the court can fully consider: (i) the lawful ownership of MOMBÅSÅ/BLOCK 1/MS/1750,

(ii) the history and existence of the schools since 1992, (ii(iii) the procedural irregularities, and (iv) the impact of execution on innocent third parties. The applicant seeks that the court exercise its powers to allow the filing of defence out of time or any appropriate applications to set aside or vary the

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judgement, insofar as they affect the schools and their lawful operations. "
She submits that the foregoing cannot be reasons for review and if at all its evidence the court is not told that it's a new discovery that could not be brought to court during the hearing. The ground listed would be a basis for a new suit involving Plot Number Mombasa/Block VMS/ 1 750 which is not a subject matter of this case. Also if the 1st defendant is not in the suit property that would be an issue at the trial and his remedy would have been a recourse in an appeal if he does not agree with the courts findings.

Analysis and Determination

The applicant seeks to be joined as an interested party in these proceedings. This court finds that there are no further proceedings in this matter judgment having been delivered on the 26th day of

June 2026. It is trite law that a person cannot be enjoined in proceedings that have been concluded. The applicants can only be enjoined once the judgment is set aside. This court finds that a person does not need to be enjoined in the suit to set aside or review a judgment.
The applicants have cited Section 80 of the Civil Procedure Act, and Order 45 of the Civil Procedure Rules 2010. Section 80 of the Civil Procedure Act states as follows;
“80. Any person who considers himself aggrieved—
(a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or
(b) by a decree or order from which no appeal is allowed by this Act,
may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit.”
This court finds that the application to be enjoined as a party is superfluous as the proceedings should be reopened first before one is made a party. The proceedings can only be reopened through a review under order 45 of the civil procedure rules. There being a final judgment, the only remedy for the applicant is to either appeal or apply for review of judgment as he has done in this case under the provisions of section 8O of the Civil Procedure Act Cap 21 Laws of Kenya
In the case of Kenya Power & Lighting Company Limited v Benzene Holdings Limited t/a Wyco Paints (Civil Appeal 132 & 133 of 2014) [2016] KECA 73 (KLR) (Civ) (25 November 2016) (the Court of Appeal in its judgment held:-

“We must as a matter of necessity start with the question of the procedure. Apart from the provisions of order 10 rule 11, order 12 rule 7 and order 36 rule 10 of the Civil Procedure Rules, dealing with the setting aside of default judgments, the Civil Procedure Rules does not have a provision for the setting aside of the final judgment. A party aggrieved by a final judgment can either move the court under order 45 for a review of the resultant decree or by lodging an appeal in terms of order 42. To qualify for a review there are stringent requirements to be met. For instance the applicant must demonstrate that as a matter of right he can appeal but has not exercised that option; that no appeal lies from the decree with which he is dissatisfied; or that he has discovered a new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced when the order was made; or that there is a mistake or error apparent on the face of the record; or that there are sufficient reasons to warrant the review. It is also a requirement that the application for review must be brought without unreasonable delay. The appellant was categorical that the decision not to invoke this order was conscientious and deliberate, just as it was purposive to resort to the inherent powers of the court because all the appellant wanted was the setting aside the judgment on a specific ground that was not covered under the former order 44, namely the respondent’s lack of capacity to maintain an action.
The import of this holding is that a party, or a “person” as referred to in section 80 the Civil Procedure Act Cap 21 laws of Kenya has a right to apply for review or to appeal in the judgment and therefore one does not need to apply to be enjoined as an interested party as the Act gives the person an automatic right of review. The applicant is one such person who does not need to apply to be

enjoined. Allowing an application for enjoinder will be placing the cart before the horse.
On the issue as to whether the applicant has established the grounds for review, this court finds that the applicants have not demonstrated discovery of any new and important matter or evidence which after exercise of due diligence was not within the applicants knowledge or could not be produced by the applicant at the time when the decree was made. In fact the 9th judgment debtor is the proprietor of the applicants and participated in the proceedings until judgment was delivered and therefore cannot turn around after judgment to apply for review of the judgment in order to have a second bite on the cherry. The record shown in the supporting affidavit of Reverend Ernest Ombeva

show that the property no Mombasa /Block1/MS/1750 where the applicants reside was allocated in 1992 to the applicants where the 9th judgment debtor is the reverend. Reverend Ombeva Kew and or ought to have known that the parcel number 1750 bordered parcel number 1668. There is no demonstration of any error apparent on the face of record any error apparent on record. The applicant’s contention that the decree holder is attempting to execute on their plot different from the suit property is not a matter for review but for objection proceedings under order 22 of the Civil Procedure Rules 2010.
This court is in agreement with the dictum in the case of Arun C. Sharma -Vs- Ashana Raikundalia T/A A.Raikundalia & Co. Advocated & the Judge stated:-
"The law is clear; under Order 22 rule 51 (1) of the Civil Procedure Rules:
Any person claiming to be entitles to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree may at any time prior to payment out of the proceeds of sale of such property give notice in writing to the court and to all parties to the decree-holder, of his objection to the attachment of such property.
The objector bears the burden of proving that he is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. Has the objector proved it is entitled to or to have a legal or equitable interest in the whole or part of any property attached in execution of a decree?"

The applicant’s property is clearly different from the suit property and therefore not capable of being affected by the judgment made by this court. I do find the entire application without merit and the same is dismissed with costs.

SIGNED BY/FOR:
HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA. MOMBASA
ENVIRONMENT AND LAND COURT
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