

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MALINDI**  
**ELCC 211 OF 2015**

**BAHATI CHARO MWINYI & 4 OTHERS** .....  
**PLAINTIFF**

**VERSUS**

**KARISA AMIN RAMADHAN** .....  
**DEFENDANT**

**RULING**

1. The application before this court for determination is dated 7<sup>th</sup> January 2026. It is seeking and order that the Deputy Registrar do execute the mutation forms on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> defendants herein. It is supported by the affidavit of **Bahati Charo Mwinyi**, also dated 7<sup>th</sup> January 2026. The deponent states that after series of proceedings following which Survey Office prepared mutations which are required to be signed by the first and second defendants the latter two defendants have refused to sign the mutation forms hence the application
2. The Application is also supported by the Attorney General through the sworn replying affidavit of **Athman Ngoka**, Land Surveyor based at Kilifi Ministry of Lands Public Works Housing and Urban Development. He is of the view also that in the absence of signatures of the 1<sup>st</sup> and 2<sup>nd</sup> defendants the mutations should be signed by the Deputy Registrar of the Court.
3. The application is however opposed by way of the affidavit of **Karisa Amin Ramadhan** dated 3<sup>rd</sup> February 2026. The gist of that affidavit is as follows: the 4<sup>th</sup> defendant passed on in **2021** and was not in a position to give authority to the swearing of the affidavit in support of the motion; that the problems facing the parties in this case are just a tip of the iceberg of the problems facing the whole Mavueni Scheme; that that the orders of this court do not authorize unilateral rectification of the Registry

Index Map, and that he will be prejudiced by the exercise if the orders are granted as prayed.

4. I will deal with only the first issue because it is vital owing to the capacity of the first plaintiff to swear the affidavit in support of the motion on behalf of the 4<sup>th</sup> plaintiff, he having sued jointly with the rest from inception.
5. In my view there is no response to the replying affidavit of the 1<sup>st</sup> defendant and therefore there is no contest that the 4<sup>th</sup> plaintiff is deceased. That demise has not been disclosed in the affidavit in support of the present motion. However, this is an application made in a case that has been pending since 2015. Nonetheless the age of the matter does not for the sake of expedition absolve the parties from substitution process where some have died before conclusion. Even the Deputy Registrar when she acts, if she has to, must act on behalf of live parties or representatives of deceased parties. The representatives of the 4<sup>th</sup> deceased plaintiff are absent from the present proceedings. That is what the 1<sup>st</sup> defendant is validly pointing out.
6. It is necessary now, to avoid further protracted proceedings herein, that the court steps in proactively and writes *finis* to the dispute as presented to court in so far as the **4 affected parcels** are concerned even if there are other pending problems in the scheme.
7. In the circumstances herein above, this court orders that the ruling on the application shall be stayed pending substitution of the 4<sup>th</sup> plaintiff after which it shall be prosecuted and the rest of the issues arising therein shall be determined. Parties shall attend a consultative meeting before the determination of the application, on **16/6/2026** in open court. The **Land Surveyor, Athman Ngoka**, who swore the affidavit dated 14<sup>th</sup> January 2026, shall be present, and the Deputy Registrar shall avail court summons for his attendance. Suitable final directions on the finalization of the dispute shall be made for the finalization of this matter after

substitution. Finally, it is hoped that appropriate measures are underway to resolve the other pockets of problems prevalent in the scheme.

**Dated, signed and delivered at Malindi on this 12<sup>th</sup> day of March, 2026.**

A rectangular box containing a handwritten signature in blue ink, which appears to read "Mwangi Njoroge".

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