

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT NAIROBI

ELRC PETITION NO. E272 OF 2025

(Before Hon. Lady Justice Hellen Wasilwa, J)

DAVID BENEDICT OMULAMA.....1ST
PETITIONER

BENARD MUKAISI.....2ND
PETITIONER

IRENE MURIMI.....3RD
PETITIONER

JAMES OKEYO.....4TH
PETITIONER

LILIAN INGUTIA.....5TH
PETITIONER

DENNIS KIBAARA.....6TH
PETITIONER

VS

REGISTRAR OF TRADE UNIONS.....1ST
RESPONDENT

PETER WANJALA PLANGA.....2ND
RESPONDENT

ANDREW MUSIKO NANDI.....3RD
RESPONDENT

EPHELY AMBUKO NANDI.....4TH
RESPONDENT

ONESMUS KARANJA.....5TH
RESPONDENT

KENYA EXPORT FLORICULTURE, HORTICULTURE
& ALLIED WORKERS UNION.....6TH
RESPONDENT

AND

KENYA PLANTATION &

AGRICULTURAL WORKERS UNION.....INTERESTED PARTY

RULING

1 In opposition to the Notice of Motion and the Memorandum of Appeal dated 8th January 2026 and the Petition dated 15th December 2025, the Interested Party filed a Notice of Preliminary Objection dated 27th January 2026 on the following grounds:

1. *THAT the 6th Respondent, against whom the 1st to the 7th Appellants have lodged complaints and upon whom the impugned orders are sought to be enforced, was lawfully dissolved on 10th December, 2025 pursuant to the provisions of Section 29(1) and (2) of the Labour Relations Act, 2007.*
2. *THAT upon dissolution under Section 29(1) and (2) and registration of the Notice of Dissolution, the 6th Respondent ceased to exist as a body corporate, lost its legal personality and thereby became incapable of suing or being sued within the meaning of Section 21 of the Labour Relations Act, 2007.*
3. *THAT the Notice of Motion, Memorandum of Appeal and the Petition are directed at, and seek substantive and coercive orders against, a nonexistent legal entity, rendering the entire*

proceedings incompetent, void ab initio and a nullity in law.

4. *THAT this Honourable Court lacks jurisdiction to entertain proceedings or grant orders that are incapable of enforcement, and the orders sought by the Appellants are, in the circumstances, orders sought in futility.*
5. *THAT the orders sought in the Notice of Motion, the Memorandum of Appeal and the Petition are incompetent, misconceived and fatally defective, as they seek, inter alia, to stay, suspend and/or issue orders against a body corporate that was dissolved on 10th December, 2025 and which no longer exists in law within the meaning of Section 21 of the Labour Relations Act, 2007.*
6. *THAT the 1st to the 7th Appellants lack locus standi to commence, maintain, prosecute or pursue any proceedings against the 6th Respondent following its dissolution, contrary to the express provisions of Section 21 read together with Section 29(1) and (2) of the Labour Relations Act, 2007.*
7. *THAT the continuation of these proceedings amounts to an abuse of the process of the Court, offends the doctrine that courts do not act in vain, and undermines the statutory scheme governing the dissolution and legal capacity of trade unions.*
8. *THAT the preliminary objection raises pure points of law, capable of disposing of the entire Notice of*

Motion, the Memorandum of Appeal and the Petition without the need to call evidence.

9. *THAT the Interested Party herein raises this Preliminary Objection in good faith and at the earliest opportunity to save the Honourable Court's judicial time, prevent unnecessary proceedings, and contribute to the reduction of case backlog, in line with the overriding objective of the Court to facilitate the just, expeditious, proportionate, and affordable resolution of disputes.*
- 2 The Interested Party further filed a Notice of Preliminary Objection dated 5th January 2026 on the following grounds:
1. *THAT this Honourable court lacks jurisdiction to entertain and/or proceed with this Petition by reason of the doctrine of sub judice, the issues raised herein being directly and substantially in issue in ELRC Cause No. E457 of 2025: Kenya Plantation & Agricultural Workers Union v Kenya Export Floriculture, Horticulture & Allied Workers Union & Another, which suit is pending before a court of competent jurisdiction, contrary to Section 6 of the Civil Procedure Act.*
 2. *THAT the Petition is fatally defective, incompetent, and bad in law, as it has been instituted in the face of an existing and pending suit involving the same subject matter, substantially the same parties, and raising identical questions of law and fact.*

3. *THAT the Petition amounts to a multiplicity of suits and an abuse of the Court process, the Petitioners having split their cause of action and engaged in forum shopping with the intent of stealing a march against the parties in ELRC Cause No. E457 of 2025.*
4. *THAT the Petition offends the doctrine of res judicata, as read together with Section 7 of the Civil Procedure Act, in so far as the issues raised herein are actively under consideration and determination in ELRC Cause No. E457 of 2025 or are matters which ought to have been raised in that suit.*
5. *THAT the Petitioners are guilty of material non-disclosure and lack of candour, having deliberately failed to disclose the existence, pendency, and substance of ELRC Cause No. E457 of 2025, particularly at paragraph 5 of the Supporting Affidavit sworn by David Benedict Omulama, thereby disentitling them to the discretionary and equitable reliefs sought.*
6. *THAT the Petition, as framed, is an abuse of the constitutional jurisdiction of this Honourable Court, the Petitioners improperly invoking constitutional provisions to sanitise an otherwise incompetent claim that is barred by statute and settled doctrines of civil procedure.*
7. *THAT the preliminary objection raises pure points of law, which, if upheld, are capable of disposing of this Petition in limine without the need to call evidence, in*

accordance with the principles set out in Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696.

3 The 2nd – 6th Respondents also filed a Notice of Preliminary Objection dated 5th January 2026 in opposition to the application dated 15th December 2025:

- 1. The Application dated 15th December 2025 is fatally defective and offends Section 6 of the Civil Procedure Act, Cap 21 Laws of Kenya. This Application offends Section 6 as the issues raised are directly and substantially in issue in the following matters which are pending before courts of competent jurisdiction: NAIROBI ELRC E457/2025; NAIROBI ELRC E679/2025; NAKURU ELRCA E043/2025. In these matters, the Petitioners herein are either Applicants, Appellants, Respondents, or Proposed Interested*
- 2. The subject matter and reliefs sought in the present application are substantially identical to those in the aforementioned pending cases. As such, the application is premature and constitutes an abuse of process, intended to forum shop or obtain parallel decisions.*
- 3. The matters pending before this Honourable Court are yet to be heard and determined, including issues of jurisdiction, merits of the dispute, and party representation. Bringing another application touching on the same subject matter prior to those*

determinations offends the proper administration of justice and judicial economy.

- 4. The 1st Petitioner lacks locus standi to institute the Application. There is no evidence that the 1st Petitioner has been duly authorized to institute this application, whether in their own capacity or on behalf of the other Petitioners. In constitutional and public interest litigation, parties must still demonstrate that they are acting bona fide and within their rights under Articles 22 and 258 of the Constitution.*
- 5. There is no written authorization, affidavit, or resolution from the other Petitioners authorizing the 1st Petitioner to act or plead on their behalf; this is in violation of Order 1 Rule 12 of the Civil Procedure Rules. The absence of such authority renders the application incompetent.*
- 6. The Application is frivolous, vexatious, brought in bad faith, and is an abuse of the court process. The Application seeks to reopen or indirectly challenge matters already pending, or previously determined, without disclosing full and material facts. It is calculated to delay, distract, or frustrate the due process of the court. It meets the legal threshold for being struck out.*

Petitioners' Case

- 4 In response to the Interested Party's Notice of Preliminary Objection dated 27th January 2026, the Petitioners filed

Grounds of Opposition dated 3rd March 2026 on the following grounds:

- 1) *THAT, the preliminary objection does not meet the threshold of a preliminary objection as settled in Mukhisa Biscuits Manufacturing Co. Lid vs West End Distributors Ltd (1969) EA 696.*
- 2) *THAT, the preliminary objection dated 27th January 2026 violates the provisions of article 22, 41 and 50 of the constitution of Kenya 2010 to the extent that it is calculated to curtail the rights of the petitioners as provided under the constitution.*
- 3) *THAT, the preliminary objection and the prayers sought therein offends the provisions of section 30 of the Labour Relations Act to the extent that it seeks to vitiate the remedy available to the Petitioners/Appellants to challenge the decision of the Registrar of Trade Unions to dissolve and or register the unlawful dissolution of the Kenya Export Floriculture, Horticulture and Allied Workers Union.*
- 4) *THAT, the Interested Party lacks locus standi to institute the preliminary objection as neither the respondents nor the Interested Party has filed any pleadings in the consolidated suits upon which a preliminary objection can be raised in line with the principles governing filing of a Preliminary Objection.*
- 5) *THAT, the preliminary objection is frivolous vexatious and an abuse of court process only meant to delay and obstruct justice to the prejudice of the*

petitioners since all grounds raised are not pure points of law but a plethora of contested facts in respect of dissolution.

6) THAT, the preliminary objection is nothing but a well calculated strategy to delay and obstruct justice to the prejudice of the Petitioners/Appellants.

7) THAT, the preliminary objection must fail with costs to be borne by the Interested Party.

5 They further responded to the Respondents' Notice of Preliminary Objection by filing Grounds of Opposition dated 3rd March 2026 on the following grounds:

1) The preliminary objection dated 5th day of January 2026 offends and violates articles 22, 41, 50, 159 and 258 of the constitution of Kenya 2010.

2) The preliminary objection does not raise any pure point of law that can be argued on its own and dispose of the consolidated suits as all the grounds relied upon constitute facts which the court must interrogate in order to make a determination.

*3) The preliminary objection dated 5th day of January 2026 does not therefore meet the threshold for a preliminary objection as settled in the widely cited case of **Mukhisa Biscuits Manufacturing Co. Ltd vs West End Distributors Lid (1969) EA 696.***

4) The 2nd to 6th Respondents have no capacity to raise a preliminary objection as they have not filed any pleadings upon which the preliminary objection can stand hence there is no pure point of law which

raised in any pleadings which if argued on its own can dispose off the consolidated suits.

5) The preliminary objection is a calculated strategy to confuse the court, delay the determination of the suits and obstruct justice.

6) The petitioners pray that the same should be dismissed with costs to the 2nd to 6th respondents.

2nd - 6th Respondents' Submissions

6 On whether the Preliminary Objection is properly before the Court, the Respondents submitted that the law governing Preliminary Objections in ***Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696***, wherein it was held that a Preliminary Objection consists of a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. Further, a Preliminary Objection may dispose of a suit if successfully argued.

7 It is the Respondents' submissions that the issues raised in the instant Preliminary Objection concern the jurisdiction of the Court and the competence of the Application, which are pure points of law and are therefore properly raised through a Preliminary Objection.

8 On jurisdiction, the Respondents submitted that jurisdiction is the foundation upon which judicial authority rests. They relied on ***Owners of the Motor Vessel "Lillian S" v Caltex Oil (Kenya) Ltd [1989] KLR 1***,

where the Court held that jurisdiction is everything and without it, a court has no power to make one more step. It was further held that once a court finds it lacks jurisdiction, it must down its tools.

- 9 The Respondents argued that the present Application raises serious jurisdictional concerns which must be determined at the threshold before the Court can proceed any further.
- 10 On sub judice, they submitted that the Application offends Section 6 of the Civil Procedure Act, which codifies the doctrine of *sub judice*. This section provides that no court shall proceed with a matter where the issues in dispute are directly and substantially in issue in a previously instituted suit between the same parties litigating under the same title.
- 11 They submitted that the issues raised in the present Application are directly and substantially in issue in Nairobi ELRC E457 of 2025, Nairobi ELRC E679 of 2025 and Nakuru ELRCA E043 of 2025, in which the Petitioners are parties either as Applicants, Appellants, Respondents or Interested Parties. Additionally, issues raised in those matters relate to the same dispute and the same subject matter that the Petitioners seek to litigate in the present Application.

- 12 They cited ***Kenya National Commission on Human Rights v Attorney General; Independent Electoral & Boundaries Commission & 16 others (Interested Parties) [2020] eKLR***, where the Court emphasized that the doctrine of sub judice is intended to prevent multiplicity of suits and avoid conflicting decisions by courts of concurrent jurisdiction.
- 13 The Respondents argued that allowing the Application to proceed would occasion parallel litigation and expose parties to the risk of contradictory determinations, and urged the Court to decline entertaining the Application.
- 14 On abuse of court process, the Respondents submitted that the Petitioners have instituted multiple proceedings in different courts touching on the same subject matter. In ***Thiba Min. Hydro Co. Ltd v Josphat Karu Ndwiga [2013] eKLR***, the Court held that in determining *sub judice*, the Court must look at the substance rather than the form of the dispute.
- 15 It was submitted that despite attempts to frame the Application differently, the substance remains identical to the issues pending in the other suits. This conduct amounts to forum shopping and constitutes a misuse of the judicial process.
- 16 On *locus standi*, the Respondents submitted that the 1st Petitioner lacks locus standi to institute the Application.

They argued that locus standi refers to the legal capacity to institute proceedings, and that the Petitioners have not placed before Court any evidence demonstrating that the 1st Petitioner has authority to institute the Application either in his own capacity or on behalf of the others.

- 17 They relied on ***Trusted Society of Human Rights Alliance v Mumo Matemo & 5 others [2014] eKLR*** where the Court held that even in public interest litigation, a party must demonstrate a genuine and legitimate interest in the matter. It was submitted that the 1st Petitioner has failed to demonstrate such lawful authority.
- 18 On whether the 1st Petitioner has authority to act on behalf of the other Petitioners, the Respondents submitted that Order 1 Rule 12 of the Civil Procedure Rules requires written authority where a party acts on behalf of another litigant. In the instant suit, the Petitioners have failed to produce any written authority signed by the other Petitioners authorizing the 1st Petitioner to act on their behalf. The absence of such written authority renders the Application procedurally defective and incompetent.
- 19 On whether the proceedings against the 6th Respondent are competent, the Respondents submitted that the Kenya Export Floriculture, Horticulture & Allied Workers Union was dissolved on 10th December 2025 and therefore ceased to exist as a legal entity capable of suing or being sued.

- 20 It was submitted that it is a settled principle that proceedings against a non-existent entity are null and void. The Respondents relied on ***DT Dobie & Company (Kenya) Ltd v Muchina [1982] KLR 1***, where the Court held that suits which are plainly unsustainable in law should be struck out at the earliest opportunity.
- 21 They argued that the inclusion of a dissolved union renders the proceedings fatally defective and that the Court cannot exercise jurisdiction over a party that does not exist in law.
- 22 On material non-disclosure, the Respondents submitted that the Petitioners are guilty of material non-disclosure. They argued that the Petitioners failed to disclose the existence of multiple pending suits touching on the same subject matter, as well as the dissolution of the 6th Respondent Union.
- 23 It was submitted that the Petitioners approached the Court without candour and in bad faith, warranting the dismissal of the Application.

Petitioners' Submissions

- 24 The Petitioners submitted that the Preliminary Objections by the 2nd to 6th Respondents and the Interested Party ought not to be allowed.

- 25 They submitted that the law governing Preliminary Objections is well settled in ***Mukisa Biscuit Manufacturing Company Limited v West End Distributors Ltd [1969] EA 696***, as approved by the Supreme Court in ***Wamae & 97 others v Barclays Bank of Kenya Limited [2021] KESC 5 (KLR)***. The key elements include the requirement that a Preliminary Objection must raise a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion.
- 26 It was submitted that the Preliminary Objection by the 2nd to 6th Respondents is anchored on the doctrine of *sub judice* under Section 6 of the Civil Procedure Act. The Petitioners argued that in order for the Court to determine whether the present matter is *sub judice* in light of Nairobi ELRC E457 of 2025, Nairobi ELRC E679 of 2025 and Nakuru ELRCA E043 of 2025, the Court shall need to ascertain from pleadings in those matters the extent to which they may be similar to the petition as consolidated with the appeal or the application dated 15th December 2025 in order to find out if issues raised, parties and the reliefs sought are similar, On this account, the Preliminary Objection must fail.

- 27 They submitted that the preliminary objection dated 5th January 2026 does not meet the threshold of a preliminary objection as it is entirely grounded on matters which would require reference to documents and pleadings in other suits to ascertain similarity. Further, the reliefs sought in the application dated 15th December 2025 are dependent on the court's discretion hence the same court be subjected to a Preliminary Objection.
- 28 It was further submitted that the Respondents had not filed copies of the referenced suits and that the reliefs sought in the Application dated 15th December 2025 are discretionary, hence not amenable to determination through a Preliminary Objection.
- 29 On the Respondents legal capacity, the Petitioners submitted that the 2nd to 6th Respondents ceased to be juridic persons upon dissolution of the 6th Respondent on 10th December 2025. They argued that the 2nd to 5th Respondents were sued in their official capacities as officials of the Union, and upon dissolution, they could not act in their individual capacities.
- 30 It was submitted that the Preliminary Objection dated 5th January 2026 was filed by a non-existent entity and by persons who lacked legal capacity, and therefore the same ought to be struck out in *limine*.

- 31 The Petitioners submitted that the Interested Party's Preliminary Objection dated 27th January 2026 does not meet the threshold for a Preliminary Objection as the factual background to the dissolution of the 6th Respondent; Kenya Export Floriculture, Horticulture and Allied Workers Union contains many facts which are contested by the petitioners. The issues include invalidity of the Notice of Dissolution of the Union and the decision and action of the Registrar of Trade Unions of dissolving / and or registering the dissolution which are the main the subject of the instant suit as consolidated with Memorandum of Appeal (ELRCC E019 of 2026).
- 32 They submitted that facts upon which the contested dissolution was anchored are in issue, including the procedures followed and whether the Registrar was justified to register the dissolution. As such, a Preliminary Objection cannot succeed where facts have to be interrogated by the court. The same should therefore fail on this account.
- 33 It is the Petitioners' submission that Article 22, 41 and 50 of the Constitution read together with section 29 and 30 of the Labor Relations Act gives the Petitioners the right to file the pleadings in the instant petition and memorandum of Appeal. As such, the Preliminary Objection dated 27th January 2026 offends the provisions of Section 30 of the Labor Relations Act in particular as members of the Union, including the 1st Petitioner and its officials including the 2nd

to 7th Petitioners prior to the dissolution, have the right under Section 30 of the Labor Relations Act to Appeal against the decisions of the Registrar of Trade Unions who is a party to the consolidated Petition and Memorandum of Appeal as 1st Respondent.

- 34 They submitted that the Interested Party lacks *locus standi* to raise the Preliminary Objection as it has not filed any pleadings in the petition and memorandum of Appeal, and that a Preliminary Objection must arise from pleaded issues.
- 35 It was further submitted that it is totally incorrect for the Interested Party to suggest that the 6th Respondent is the sole Respondent against whom reliefs in the petition and Memorandum of Appeal are sought. It is clear in the instant Petition and Memorandum of Appeal that the Registrar of Trade Unions whose decisions are challenged under Section 30 of the Labor Relations Act is the 1st Respondent and the office of the Registrar of Trade Unions is alive.
- 36 It is therefore the Petitioners' submission that the consolidated suits are properly before court and should be determined on their merits the dissolution of the 6th Respondents notwithstanding. On this account, the Preliminary objection should be dismissed.

- 37 The Petitioners submitted that the Interested Party in its preliminary objection dated 3rd May 2026 relies on the ground want of jurisdiction which is misplaced. They argued that the Court is not being asked to determine the purportedly struck out suits consolidated under Cause No. E457 of 2025.
- 38 They submitted that there is an active application dated 23rd February 2026 under Cause No. E457 of 2025 as consolidated with Cause No. E679 of 2025 and Appeal No. E043 of 2025 seeking to set aside the ruling / orders issued on 5th February 2026 striking out the consolidated suit. Therefore, the consolidated files under E0457 have been re-opened for the purposes of hearing the application dated 23rd February 2026 and hence this file can be consolidated with the present petition and Appeal as there are common questions regarding dissolution of the 6th Respondent which is in issue in the application dated 20th January 2026
- 39 The Respondent submitted that the orders issued on 5th February 2026 were issued without jurisdiction on the part of the court and in complete disregard to the fact that the purported applicant (KEFHAWU) was already dissolved by the time of filing the impugned application dated 20th February 2026 hence the same orders are null and *void ab initio* and not binding to this Court.

- 40 It is the Petitioners' submission that the instant application is merited and should be allowed as all the grounds upon which it is predicated have not been controverted, the Interested Party having chosen instead to defend the application on the illusion of existence of ruling/orders issued on 5th February 2026, which orders are null and void ab-initio for want of legal capacity of the purported Applicant and lack of jurisdiction on the part of the court.
- 41 On misjoinder, the Petitioners submitted that the consolidated suits herein, have other parties as Respondents other than the 6th Respondent; and that the 1st Respondent is the main Respondent against whom reliefs have been sought. Therefore, the suits can be prosecuted even if the 6th Respondent has been dissolved. They argued that the 6th Respondent is a misjoined party following its dissolution and the remedy to misjoinder is striking out the misjoined party rather than striking out the suit when issues and reliefs against the other parties are still valid.
- 42 The Petitioners relied on several case laws including **William Kiprono Towett & 1597 Others v Farmland Aviation Ltd & 2 Others [2016] eKLR** wherein the court held: *"Most critically Order 1 Rule 9 of the Civil Procedure Rules (2010) makes it abundantly clear that misjoinder or non-joinder of parties cannot be a ground to defeat a suit."* Further, in ***Local Building and Construction Limited v Institute of the Blessed***

Virgin Mary Loreto Msongari & 2 others [2019]

eKLR: *“Order 1 rule 9 and Article 159 is intended to ensure that each party is afforded a fair trial guaranteed under Article 50 (1) of the Constitution. But a fair trial does not exist in a vacuum, it is governed by rules which by themselves ensure that each party is given the opportunity to present or defend his case fairly. That is the purpose of a trial court. It must make sure that the parties are given ample opportunity to ventilate the issues arising from their case. What the said rules must not do is to become an end in themselves and impede a fair trial and that is why Article 159(2) (b) of the Constitution provides that justice shall be administered without undue regard to technicalities. When case is decided in accordance with substantial justice as depicted under the abovementioned article, justice will not only be seen but will be seen to have been done.”*

- 43 The Petitioners submitted that they have made up a case for transfer and consolidation for the following grounds:- The order striking out Cause No. E457 of 2025 consolidated with Cause No. 679 of 2025 and Appeal No. E043 of 2025 is a null and void order issued to a non-existent party by a court without jurisdiction, hence it is not binding to this court; The Interested Party has not disputed the grounds on which the petitioners are seeking transfer and consolidation instead choosing to rely on a void order to oppose transfer and consolidation; The

dissolution of the 6th Respondent has become the common issue in all the suits sought to be consolidated as the Interested Party has sought the striking out of all the suits to be consolidated on the ground of dissolution of the 6th Respondent, which dissolution issue is still pending before court to determine its validity.

44 It is the Petitioners' submission that to avoid duplicity of findings, conflicted determinations by the courts, unnecessary costs and wastage of scarce resources of the court both in time and costs, it is just and fair for the suits herein to be transferred and consolidated for expeditious and effectual dispensation of justice.

45 The Petitioners submitted that in **Henry Wanyama Khaemba v Standard Chartered Bank (K) Ltd & another [2014] eKLR**, the Court held: *"The issues of res judicata, duplicity of suits and suit having been spent will require probing of evidence as it is already evident from the submissions by the 1st Defendant. They are incapable of being handled as preliminary objections because of the limited scope of the jurisdiction on preliminary objection. Courts of law have always had a well-founded quarrel with parties who resort to raising preliminary objections in improperly. See the words of Newbold P. in registering a strong deprecation on such improper preliminary objections in the **Mukisa Biscuits case** that: "That the improper raising of points by way of Preliminary Objection*

does nothing but unnecessarily increase costs and, on occasion, confuse the issues. This improper practice should stop.”

46 On locus standi, the Petitioners submitted that in ***Julian Adoyo Ongunga & another v Francis Kiberenge Bondeva (Suing as the Administrator of the Estate of Fanuel Evans Amudavi, Deceased) [2016] eKLR*** it was stated *“Further the issue of locus standi is so cardinal in a civil matter since it runs through to the heart of the case. Simply put, a party without locus standi in a civil suit lacks the right to institute and/or maintain that suit even where a valid cause of action subsists. Locus standi relates mainly to the legal capacity of a party. The impact of a party in a suit without locus standi can be equated to that of a court acting without jurisdiction since it all amounts to null and void proceedings.”*

47 It is therefore the Petitioners’ submission that the Respondents’ application dated 20th January 2026 constitutes null and void proceedings and the order arising therein is a nullity hence this court should disregard the interested party’s preliminary objection dated 27th January 2026 and 3rd March 2026 in so far as they are based on the same order. Further, the Respondents’ preliminary objection dated 5th January 2026 should be dismissed for want of legal capacity to institute the same and want of jurisdiction on the part of the court.

- 48 On lack of legal capacity and jurisdiction to entertain the Respondents' preliminary objection, the Petitioners relied on ***Kenyaga v Onganyo & 5 others (Sued as trustees of Barina Squatters Self Help Group) [2022] KEELC 2329 (KLR)*** where the court cited with approval ***Football Kenya Federation v Kenyan Premier League Limited & 4 others [2015] eKLR*** where it was stated: *"it is trite law that to be competent and have jurisdiction over a matter, proper parties must be identified before the action can succeed. The parties to it must be shown to be proper parties whom rights and obligations arising from the cause of action attach. The question of proper parties is a very important issue which would affect the jurisdiction of the suit in limine. When proper parties are not before the court the court lacks jurisdiction to hear the suit, and where the court purports to exercise jurisdiction which it does not have, the proceedings before it and its judgment will amount to a nullity no matter how well reasoned."*
- 49 I have considered the averments and submissions of the parties herein. The interested party raised a preliminary objection in this petition and have averred that the 6th respondent against whom the petition is filed was dissolved on 10th December 2025 and therefore does not exist.

50 The 2nd to 6th respondents also raised a preliminary objection to the effect that there are other claims pending in other courts involving similar parties and therefore the petition is an abuse of the court process. It has also not been denied by the petitioner herein that the 6th respondent was dissolved as submitted by the interested party. The petitioner cannot therefore be pursuing a petition against a non existent party.

51 As concerns the preliminary objection raised by the 2nd to 5th respondents the issue of other pending cases in court are also issues that are not contested. The petition can only proceed if the 6th respondents exists or if there is an amendment. In view of this one fact, the court finds that the preliminary objection is merited and proceeds to strike out this petition. There shall be no order of costs.

**Dated, Signed and Delivered Virtually at Nairobi
this 23rd Day of April, 2026.**

HELLEN WASILWA

JUDGE