

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT
KITALE
ELC NO. 74 OF 2019

PASCAL WAFULA
(Derivatively on behalf of
TRANS NZOIA INVESTMENT COMPANY LIMITED----
PLAINTIFF

VERSUS

RONALD SAWENJA WALUBENGO-----1ST
DEFENDANT

PAUL SIMIYU WEKESA-----
2ND DEFENDANT

GEORGE IMBERA LUDISI-----3RD
DEFENDANT

KALORI ISOSO-----
4TH DEFENDANT

MUNDEBE INVESTMENT
COMPANY LIMITED-----5TH
DEFENDANT

VIPUL RATILAL DODHIA-----6TH
DEFENDANT

CHERANGANI INVESTMENTS
COMPANY LIMITED-----7TH
DEFENDANT

AND

TRANS NZOIA INVESTMENT CO. LTD-----
AFFECTED PARTY

RULING

1. The court has looked at the application dated **19/3/2026**, the preliminary objection, and the replying affidavits by the respondents to the applications. The law allows a litigant to change

legal representation at any stage with leave of the court. I find no basis to deny the applicant leave in the absence of any genuine reason under **Order 9 Rule 9** of the Civil Procedure Rules from his former lawyers on record.

2. As regards the rest of the prayers in the notice of motion, I uphold the preliminary objection dated **7/4/2024**, that this court lacks jurisdiction to deal with matters touching on the management, governance, and control of the affected party, to whom the suit property was reverted to by the judgment of this court.
3. The court has come across another application dated **6/4/2026**, which ideally is similar to the instant one. It is hereby struck out with no order as to costs.
4. As to the application dated **15/4/2026**, the court in a ruling dated **12/11/2025**, pronounced itself at paragraphs **43 - 51** on the issue of legal representation to take over the execution of the decree on behalf of the affected party, without the authority of the 3rd and 4th defendants or the affected party, to issue notice for the 6th and 7th defendants and other tenants or occupiers of the suit property to vacate the suit premises in line with the law.

5. That ruling generated a notice of appeal dated **12/11/2025** by the Firm of Kraido & Co. Advocates, on behalf of the appellant. The said law firm also applied for a stay of that ruling on behalf of the plaintiffs by an application dated **18/2/2026**, whose ruling is on **3/6/2026**.
6. The court has this morning come across a notice of withdrawal dated **19/3/2026**, which was filed a day after the parties appeared before me, argued the said application seeking to withdraw the application despite the pending ruling. Equally, there is a letter dated **24/3/2026**, surrendering the original decree issued on **2/7/2025** to the Deputy Registrar, in line with the ruling of **12/11/2025**. This makes the pending ruling academic and as overtaken by the events.
7. The consequence is that this court is already *functus officio* and the issues raised in the application dated **15/4/2026** are not only *res judicata*, but also fall outside the jurisdiction of this court in so far as who are the current *bona fide* directors of the affected party, with capacity to resolute on which law firm can represent it in the execution process if there is any, or the running of the affairs of the affected party/company.
8. As to the issues raised on the execution process, paragraph **45** of the ruling dated **12/11/2025**

addressed the same. Now that the original decree has been surrendered to be extracted and issued with the concurrence of the 6th and 7th defendants, who are the applicants, the issues raised by the application herein fall under **Order 22** and **Order 49** of the Civil Procedure Rules.

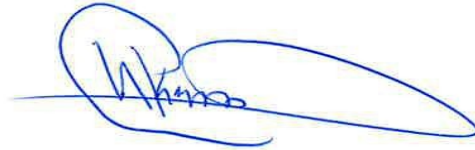
- 9.** The court declines to usurp the powers of the Deputy Registrar. The upshot is that the application dated **15/4/2026** is struck out with no orders as to costs.
- 10.** Further, in view of the notice of withdrawal dated **19/3/2026**, the orders dated **18/3/2026** are reviewed to the extent that the application dated **18/2/2026** is marked as withdrawn with costs to the respondents.
- 11.** File marked closed, save for any post-judgment execution processes.
- 12.** Orders accordingly.

Ruling dated, signed, and delivered via **Microsoft Teams/Open Court** at **Kitale** on this **16th** day of **April 2026**.

In the presence of:

Court Assistant - Dennis
Mwemeke for the 6th and 7th defendants present
Kraido for the plaintiff absent
Muhanda for the 1st and 5th defendants present
5th defendant present
Omulama for the 3rd and 4th defendants absent

Applicant in person.

A handwritten signature in blue ink, appearing to read 'W. Nzi', with a large, sweeping flourish extending to the right.

**HON. C.K. NZILI
JUDGE, ELC KITALE.**

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