

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ELCLPET NO. 1 OF 2026

**ALI KATANA TSUMA & 6 OTHERS
PETITIONERS**

VERSUS

**REGISTRAR OF TITLES MOMBASA & 2 OTHERS
RESPONDENTS**

DIRECTIONS

1. The 1st respondent's application dated 17/2/2026 seeks several orders thus:

- a. That conservatory orders issued on 26/1/2026 be set aside unconditionally;*
- b. The petition be stayed pending hearing and determination of Msa HC ELC No 31 of 2021;*
- c. That in the alternative the petition be transferred to Mombasa for hearing and disposal alongside Msa HC ELC No 31 of 2021.*

2. The 1st respondent claims ownership of property known as Plot No 5052 (Original NO 2056/2 Sec III/MN (CR 45534) (hereinafter also referred to as "*the suit land*"). He alleges that he and others have a case in Mombasa, being *Msa HC ELC No 31 of 2021*, which according to his counsel, is scheduled for hearing on 3 days sometime in July 2026 in the Mombasa ELC hence the alternative prayer for transfer of the present petition to Mombasa; that there will be now **5** different claimants to the same portion of land including the petitioners herein.

3. In the reply to the present petition contained in the affidavit of the 1st respondent dated 16/2/2026, he has stated as follows:

"23. That we have sought for cancellation of the Title illegally issued to them by the 2nd Respondent. We are the ones with the proper Titles and the ones in situ.

24. That this we have done in Mombasa ELC suit No. 31 of 2021 OMAR ALI RASSAM & 8 OTHERS -VS- CHRISTOPHER KARISA KAZUNGU & 10 OTHERS which is coming up on 19/2/2026 for joinder of additional parties in the paragraph below ...”

4. It is trite that disputes concerning title are best handled in ordinary suits and the court dealing with the ordinary suit would be best placed to hear and determine this petition.
5. I am thus persuaded that the issues in this petition ought to be handled by the same court that is hearing the *Mombasa ELC Suit No. 31 Of 2021 Omar Ali Rassam & 8 Others -Vs- Christopher Karisa Kazungu & 10 Others* in order to avert any duplication of resources.
6. **Prayer No 4** in the application dated 17/2/2026 therefore has merit.
7. I therefore order that this petition be transferred to Mombasa for hearing and final disposal. The same shall be placed before the Judge hearing *Mombasa ELC Suit No. 31 Of 2021 Omar Ali Rassam & 8 Others -Vs- Christopher Karisa Kazungu & 10 Others* for issuance of directions as to its hearing, as soon as practicable in view of the close hearing dates which have been set for that civil suit.

Dated, signed and issued at Malindi on this 14th May 2026.



**MWANGI NJOROGE
JUDGE, ELC MALINDI.**