



**Makokha & another v Okelo (Substituted in Place of Mose Morris Pamba (Deceased)  
& another; Wekesa t/a Timpech Auctioneers (Applicant) (Environment and  
Land Case 111 of 2016) [2025] KEELC 5332 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5332 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUSIA  
ENVIRONMENT AND LAND CASE 111 OF 2016**

**BN OLAO, J  
JULY 16, 2025**

**BETWEEN**

**JOSEPH AKHUNGU MAKOKHA ..... 1<sup>ST</sup> PLAINTIFF**

**EPERIM KIZITO MAKOKHA ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**BENARD OUMA OKELO (SUBSTITUTED IN PLACE OF MOSE MORRIS  
PAMBA (DECEASED) ..... 1<sup>ST</sup> DEFENDANT**

**VITALIS BARASA NYAMBOKI ..... 2<sup>ND</sup> DEFENDANT**

**AND**

**TIMOTHY WANJALA WEKESA T/A TIMPECH AUCTIONEERS . APPLICANT**

**RULING**

1. The Notice of Motion dated 19<sup>th</sup> March 2025 by Timothy Wanjala Wekesa (the Applicant) came up this morning and upon hearing him virtually, I listed it for ruling on 17<sup>th</sup> July 2025. He seeks security to enable him attach and sale moveable properties of the Defendants arising out of a taxed Bill of costs.
2. Upon further perusal of the Motion and the annexed affidavits and the judgment delivered by OmolloJ on 27<sup>th</sup> September 2022, have found that infact it was the Plaintiffs who were condemned to pay the Defendants costs and not the other way round. Therefore, the execution should be as against the Plaintiffs i.e. Joseph Akhungu Makokha and Eperim Kizito Makokha. Yet, from the affidavit of service of Daniel Fwamba Muyekho dated 28<sup>th</sup> March 2025, it was the Defendants who were served with the Motion and not the Plaintiffs.
3. In the circumstances, the Notice of Motion is directed to the wrong parties. It is hereby struck out. The Applicant to put his house in order and to file a proper Motion to be served upon the Plaintiffs Joseph



Akhungu Makokha and Eperim Kizito Makokha and not the Defendants Benard Ouma Okello and Vitalis Barasa Nyamboki.

4. Orders accordingly.

**BOAZ N. OLAO**

**JUDGE**

**16<sup>TH</sup> JULY 2025**

**RULING DATED, SIGNED AND DELIVERED BY WAY OF ELECTRONIC MAIL ON THIS 16<sup>TH</sup> DAY OF JULY 2025.**

**BOAZ N. OLAO**

**JUDGE**

**16<sup>TH</sup> JULY 2025**

