

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC CASE NO. 31 OF 2012

MOHAMMED KWEYA OJUOK & 6 OTHERS.....PLAINTIFFS/RESPONDENTS

VERSUS

COUNTY GOVERNMENT OF KAKAMEGA.....1STDEFENDANTS/APPLICANTS

ABDALLAH ALI SAGHAR

SAIDA ABBAS HASSAN

MUMIAS NUBIAN COMMUNITY.....2NDDEFENDANT

HON. ATTORNEY GENERAL.....3RD DEFENDANT

RULING

The first defendant raised a preliminary objection as per paragraph 3 of their amended defence that the plaintiff's do not have any locus standi to bring the suit. It is not clear who the plaintiffs' are representing and there is no establishment of a trust. The land belongs to Mumias County Council from 1957 until subdivision in 2012. The 2nd defendant states that the pleadings are not clear as to the number of people involved. The 3rd respondents opted not to participate in the preliminary objection.

The plaintiff submitted that, the plaintiffs are properly before this court and that several people live on this land.

This court has carefully considered the preliminary objection and the submissions herein. On perusal of the court file I find that the matter was instituted by the plaintiff's as representatives of several others. There is no trust pleaded. I find that the issues raised herein will be a matter of evidence. I find that the preliminary objection has no merit and I dismiss it with costs.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 22ND DAY NOVEMBER 2018.

N.A. MATHEKA

JUDGE