



**REPUBLIC OF KENYA**

**ENVIRONMENT AND LAND COURT AT MACHAKOS**

**CIVIL CASE NO. 242 OF 2010**

THE TRUSTEE KWA MUTU PENTECOSTAL

EVANGELISTIC FELLOWSHIP OF AFRICA

Alias PEFA CHURCH.....PLAINTIFF

**VERSUS**

PASTOR RAPHAEL MUTHINI.....DEFENDANT

**RULING**

1. In the Preliminary Objection dated 8<sup>th</sup> October, 2012, the Defendant has prayed that the suit as filed is bad in law and fatally defective; that the Plaintiff has no locus standi to file the suit and that the Plaintiff is not a legal entity with capacity to sue or be sued.
2. The Defendant has further averred in the said Notice of Preliminary Objection that the purported trustee to the Plaintiff is neither named nor described in the Plaint and that the Plaintiff is registered as a society under the Societies Act and that it is incapable of suing in its own name.
3. Although the court directed that the Preliminary Objection be argued by way of written submissions, it is only the Plaintiff who filed its submissions on 8<sup>th</sup> June, 2015.
4. In the absence of the Defendant's submission, the Preliminary objection remains unprosecuted.
5. Having failed to file submissions as directed by the court, the Preliminary Objection dated 8<sup>th</sup> October, 2012 is dismissed with costs for want of prosecution.

**DATED, SIGNED and DELIVERED in MACHAKOS this 19<sup>th</sup> DAY OF MAY, 2017.**

**O. A. ANGOTE,**

**JUDGE.**