



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI

ELC CASE NO. 246 OF 2014 (O.S)

IN THE MATTER OF PORTION NO. 127 MALINDI

AND

**IN THE MATTER OF SECTION 38 OF LIMITATION OF ACTIONS ACT CAP 22, LAWS OF
KENYA**

AND

**IN THE MATTER OF AN APPLICATION FOR DECLARATION THAT THE PLAINTIFFS
HAVE OBTAINED TITLE OVER PORTION NO. 138/1/2/3 MALINDI BY ADVERSE
POSSESSION**

BETWEEN

JAPHETH KAHINDI MUNGELA1ST PLAINTIFF/APPLICANT

CHARO KAHINDI MUNGELA.....2ND PLAINTIFF/APPLICANT

ALI KAHINDI MUNGELA3RD PLAINTIFF/APPLICANT

ALBERT MUNGELA4TH PLAINTIFF/APPLICANT

KAMBI MASHA5TH PLAINTIFF/APPLICANT

KADZITU KOMBE6TH PLAINTIFF/APPLICANT

KATSELE ALI7TH PLAINTIFF/APPLICANT

VERUS

KITSAO NGONYO HINZANO1ST DEFENDANT/RESPONDENT

HARRISON KOMBE2ND DEFENDANT/RESPONDENT

RULING

1. This Ruling is in respect to the 1st Defendant's Preliminary Objection dated 14th April, 2016 in which the 1st Defendant has averred that this suit is sub judice in view of Malindi CMCC No. 160 of 2010.

2. Although the parties were to argue the Preliminary Objection by way of written submissions, I have not seen the said submissions on record.

3. In the absence of those submissions, the Preliminary Objection is struck out with no order as to costs.

DATED AND SIGNED AT MACHAKOS THIS 2ND DAY OF MAY, 2017.

O. A. ANGOTE

JUDGE

DATED, DELIVERED AND SIGNED AT MALINDI THIS 12TH DAY OF MAY, 2017.

J.O. OLOLA

JUDGE