



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MACHAKOS
ELC. CASE NO. 125 OF 2014

KATHIANI CATTLE DIP SELF-HELP GROUP.....PLAINTIFF

VERSUS

THE HON. ATTORNEY GENERAL.....1ST DEFENDANT

THE COUNTY GOVT. OF MACHAKOS.....2ND DEFENDANT

RULING

1. This Ruling is in respect to the 1st Defendant's Notice of Preliminary Objection dated 23rd January, 2014.
2. In the said Notice of Preliminary Objection, the 1st Defendant has averred that the suit is fatally defective; that the Plaintiff lacks *locus standi* and that the suit should be dismissed with costs.
3. The Preliminary Objection proceeded by way of submissions.
4. The 1st Defendant's counsel submitted that a legal entity is a body, other than a natural person, that can function legally, sue or be sued and make decisions through agents.
5. Counsel submitted that the Plaintiff is not a legal entity that can sue or be sued; that the Plaintiff should have sued in the name of its officials or members and that the suit should be dismissed with costs on that ground.
6. The Plaintiff's advocate submitted that the Plaintiff should be allowed to amend its Plaint pursuant to the provisions of Order 8 Rule 5(1) of Civil Procedure Rules.
7. What is before me is not an Application for amendment of the Plaint, but a Preliminary Objection as to whether the Plaintiff is a legal entity capable of suing and being sued.
8. The Plaintiff's advocate has not denied that the Plaintiff is not a legal entity that can sue and be sued.
9. Being an unincorporated body, the Plaintiff can only bring a suit in the name of its officials or members.
10. Indeed, the Plaintiff has not exhibited any document to show its officials or members.

11. Having arrived at the conclusion that the Plaintiff is not a legal entity capable of suing or being sued, I find that the suit as filed by the Plaintiff is incompetent.

12. I therefore allow the Notice of Preliminary Objection and strike out the suit with costs.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 29TH DAY OF SEPTEMBER, 2017.

O. A. ANGOTE

JUDGE