



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**  
**AT MALINDI**  
**ELC CIVIL CASE NO.213 OF 2014**

1. LAMEC JILLO KOMORA
2. JOSEPH KOMORA JILO
3. LILIAN BAHATI

*(Suing for and on behalf of METHODIST CHURCH OF KENYA,  
CHEWANI*

**METHODIST.....PLAINTIFFS**

**=VERSUS=**

1. THE CHIEF CHEWANI LOCATION
2. MUSTAFA BATWOYA JUMA
3. ISSA HAMARA
4. AKARC HAMARA
5. MCHAWALA JRHA
6. AWADH DOYO DHIDHA
7. ALI DHADHO ODDO
8. ATTORNEY GENERAL.....DEFENDANTS

**R U L I N G**

1. What is before me is the Application by the Defendants dated 8<sup>th</sup> September, 2015 in which they are seeking for the following orders:-

- (a) **THAT the Honourable Court be pleased to strike out the Plaint dated 11<sup>th</sup> November, 2014 with costs of the defendant.**
- (b) **THAT costs of this application be provided for.**

2. The Application is not premised on any grounds. However, it is supported by the Affidavit of the 2<sup>nd</sup> Respondent who has deponed that this court delivered its Ruling on 5<sup>th</sup> June, 2015 dismissing the Application dated 11<sup>th</sup> November, 2014; that the net effect of the Judgment was that the entire suit cannot be sustained and that the Plaintiff did not follow the mandatory procedure of acquiring Trust land.
3. The 2<sup>nd</sup> Applicant further deponed that the Plaint is a sham, embarrassing and an abuse of the court process.
4. The Plaintiffs did not respond to the Application.
5. Order 50 Rule 4 provides that every Application shall be supported with Grounds.
6. The Application before me is not supported with any grounds.
7. Indeed, it is not clear on which basis the Application is seeking to strike out the suit considering that a suit can be struck out on several grounds including on the ground that it does not disclose a reasonable cause of action or that it is scandalous or that it may prejudice or embarrass the fair trial of the action or that it is otherwise an abuse of the Court Process (see Order 2 Rule 15 (2) of the Civil Procedure Rules)
8. The failure by the Applicant to state the Grounds on which the Application is premised on or even to state precisely that Application has been filed pursuant to Order 2 Rule 15 of the Civil Procedure Rules renders the Application incompetent.
9. In the circumstances, I strike out the Application dated 8<sup>th</sup> September, 2015 with costs.

Dated, signed and delivered in Malindi this **14<sup>th</sup>** day of **September**, 2016.

**O. A. Angote**

**Judge**