

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

ENVIRONMENT AND LAND CASE NO. 82 OF 2013

1, BIHINDI MWIJAKA MWINYIFAKI

2. SALAMA MWIJAKA MWINYIFAKA

(administrators of the estate of Mwanahawa Mwinyijaka Mwinyifaki (Deceased)

PLAINTIFFS

- V E R S U S -

1. IMA MATANO MZEE

2. JULIUS MATHEMBE

3. HASSAN ATHMAN

4. BIMVUA ABDALLA DEFENDANTS

RULING

[1] The prayers in the plaint dated 2nd of May, 2013 and the prayers in the Notice of Motion dated 2nd May, 2013 are the same. Determining the application herein will mean I will have determined the suit without having heard the defendants who have appeared and have filed their defence. This will obviously prejudice the respondent/ defendants and will lead to a miscarriage of justice. Parties to this suit should fix this case down for hearing so that the court can determine the issues herein. To preserve the subject matter of the suit, status quo should be maintained.

It is so ordered

Dated and delivered in open court at Mombasa this 14th day of March, 2014.

S.N. MUKUNYA

JUDGE

14.3.2014

In the presence of;

Mr. Mwarandu Advocate for the plaintiff.

Mr. Mutiso advocate for Mr. Khayatta for 3rd and 4th defendants/respondents.