



**Pamwhite Limited v Karomo & Seinfert (Suing as the Chairman and Secretary
Respectively, of the New Nyali Residents Association) & 4 others (Civil
Appeal E113 of 2023) [2025] KECA 853 (KLR) (7 March 2025) (Judgment)**

Neutral citation: [2025] KECA 853 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT MOMBASA
CIVIL APPEAL E113 OF 2023
AK MURGOR, KI LAIBUTA & GWN MACHARIA, JJA
MARCH 7, 2025**

BETWEEN

PAMWHITE LIMITED APPELLANT

AND

**BENSON KAROMO & HUBERT SEINFERT (SUING AS THE CHAIRMAN
AND SECRETARY RESPECTIVELY, OF THE NEW NYALI RESIDENTS
ASSOCIATION) 1ST RESPONDENT**

KIRKE LIMITED 2ND RESPONDENT

IDEAL LOCATIONS LIMITED 3RD RESPONDENT

CONRAD PROPERTIES 4TH RESPONDENT

THE COUNTY GOVERNMENT OF MOMBASA 5TH RESPONDENT

*(Being an appeal against the Ruling and Orders of the Environment and Land Court
at Mombasa (L. L. Naikuni, J.) dated 18th July 2022 in E.L.C Case No. 219 of 2020)*

JUDGMENT

1. The instant appeal arises from the ruling and orders of the Environment and Land Court at Mombasa (Naikuni, J.) dated 18th July 2022 in ELC Case No. 219 of 2020 in which the 1st respondent (Benson Karomo and Hubert Seifert – suing as Chairman and Secretary respectively of the New Nyali Resident Association), the 2nd respondent (Ideal Locations Limited), the 3rd respondent (Kirke Limited) and the 4th respondent (Conrad Properties Limited) filed suit against the appellant (Pamwhite Limited) and the 5th respondent (the County Government of Mombasa).



2. In their Plaintiff dated 26th November 2020, amended on 21st December 2020 and further amended on 22nd January 2021, the 1st to 4th respondents' case was that the 1st respondent was the New Nyali Resident Association, a registered association of property owners and residents of the area known as New Nyali in Mombasa County, and was represented in the suit by Benson Karomo (the Chairman) and Hubert Seifert (the Secretary) who also sued on their own behalf; that the 2nd to the 4th respondents were limited liability companies incorporated under the repealed *Companies Act*; that the appellant was undertaking a commercial development on its property known as Festival City Shopping Center comprising of three floors and a basement floor without first obtaining permission for its development from the County Executive Committee Member of the 5th respondent; and that the appellant's development was illegal in that it was undertaken in contravention of statute law and regulations.
3. The 1st to 4th respondents further averred that, despite the irregularities surrounding the appellant's development as particularised in the plaint, the 5th respondent had refused, failed or neglected to stop the development; that the development was undertaken in violation of the terms of the lease imposed on the appellant's title; and that the appellant and the 5th respondent wilfully violated the binding terms of the Memorandum of Understanding dated 28th September 2017; and that the Memorandum of Understanding entered into between the 1st and the 5th respondents provided for regulation and control of planning and physical development of New Nyali Estate, and for consultation of the 1st respondent before the 5th respondent approved any proposed development in the area. By reason of the matters aforesaid, the 1st to 4th respondents sought a declaration that the approval issued by the 5th respondent's Chief Officer Lands, Planning and Housing for the appellant's commercial development was issued by an unauthorised officer and was therefore illegal, null and void for all intents and purposes; a permanent injunction to restrain the appellant from proceeding with the commercial development until proper approval was granted by the 5th respondent, and until the appellant complies with the relevant statutory provisions and the Memorandum of Understanding between the 1st and the 5th respondents; cost of the suit; and any other or further relief the court may deem fit to grant.
4. Along with their plaint, the 1st to 4th respondents filed a Notice of Motion dated 26th November 2020 seeking temporary injunctive orders. The Notice of Motion was supported by the Affidavit of Benson Karomo, describing himself as the Chairman of the 1st respondent association. His affidavit was sworn on 26th November 2020.
5. On 21st January 2021, Benson Karomo, still describing himself as the Chairman of the 1st respondent, filed a Notice of Intention to Act in Person dated 7th January 2021 along with an affidavit sworn by him on the same date in which he deponed that, upon further reflection, he had concluded that his complaint against the development undertaken by the appellant was not merited that he had hence freely and voluntarily decided to withdraw his complaint and the suit thereon; that he withdrew the Supporting Affidavit which he swore on 26th November 2020 in support of the Notice of Motion of even date; and that he had no objection to the appellant proceeding with the development works.
6. The appellant filed a Statement of Defence dated 17th February 2021. It denied the allegations contained in the Plaintiff and averred that, even if the Memorandum of Understanding existed, which was denied, it was not binding on the appellant, which was not party thereto; and that the appellant acquired its development approvals legally and procedurally.
7. Subsequently, the appellant filed a Notice of Motion dated 13th May 2021 seeking orders that the plaint be struck out, and that the entire suit be dismissed with costs to the appellant and the 5th respondent. The appellant's application was supported by the Affidavit of Pamela Auma Ogola sworn on 13th May 2021 essentially deposing to the grounds on which the Motion was anchored, namely: that the entire



suit was defective, frivolous and vexatious because the people who had filed the suit on behalf of the 1st respondent were not the officials of the 1st respondent; that, at the time of filing suit, the 1st respondent was operating as an illegal society with no locus to file a suit against anyone as evidenced by an annexed copy of a letter from the Assistant Registrar of Societies dated 22nd December 2020 indicating that the 1st respondent's Chairman was one Said Tahir; and that the 1st respondent had not filed annual returns since 2015 contrary to the *Societies Act*.

8. The appellant also averred that, in their resolutions, the 2nd to 4th respondents gave one Anish Doshi or any other official of the 1st respondent the authority to sign and swear any pleadings to be filed in court; that the verifying affidavit and witness statement was sworn and/or signed by one Benson Karomo, who was not and had never been an official of the 1st respondent association; that, therefore, Benson Karomo had no locus standi to file the suit on behalf of the 1st to 4th respondents; that, on realising the error of his ways and that the suit was fatally defective ab initio, the said Benson Karomo filed an affidavit withdrawing his supporting affidavit sworn on 26th November 2020 supporting the Notice of Motion of even date; that the said Benson Karomo filed a Notice of intention to act in person on 21st January 2021, and subsequently withdrew the entire case; that it therefore goes without saying that there was no suit before the court; and that the court ought to formalize the position and dismiss the suit with costs.
9. The 2nd and 3rd respondents (Ideal Locations and Kirke Limited) filed a Notice of Withdrawal dated 31st May 2021 and amended on 7th June 2021 thereby withdrawing their suit against the appellant and the 5th respondent.
10. In response to the appellant's Motion, the 1st respondent filed a replying affidavit sworn on 14th June 2021 by Hubert Seifert describing himself as the then current Chairman of the 1st respondent. He deponed that, as at the time the suit was filed on 30th November 2020, he was serving as the Secretary to the 1st respondent; that he was currently serving as the Chairman of the Association, having been duly elected on 2nd February 2021; that Benson Karomo was first elected as the 1st respondent's Chairman on 24th April 2018 and re-elected on 2nd April 2019; that it is not the filing of returns that made them officials of the 1st respondent; that there was no basis for the allegation that the 1st respondent was operating as an illegal society at the time of filing suit; that the 1st respondent had filed returns belatedly because the former Chairman had not signed the requisite documents; and that belated filing does not make a registered society illegal or unlawful, or otherwise divest it of its right to sue.
11. Hubert Seifert further deponed that Benson Karomo was duly elected and re-elected as the Chairman of the 1st respondent and, therefore, had the capacity to swear the Verifying Affidavit in support of the original Plaintiff; that, even if Benson Karomo was not an official of the 1st respondent, which was denied, any possible defect in the Verifying Affidavit sworn by Benson Karomo had since been cured when the Amended Plaintiff dated 21st December 2021 was filed on the same date and verified by the Affidavits of both Anish Doshi and himself; that the Amended Plaintiff was filed before any of the defendants filed their defences and, therefore, the same did not require leave; that Benson Karomo could not withdraw the Supporting Affidavit sworn on 26th November 2020 as he (Benson Karomo) clearly stated that he was swearing the affidavit on behalf of the 1st respondent and the other plaintiffs; that Benson Karomo was allowed to swear the Supporting Affidavit on behalf of the 1st respondent through minuted resolutions, and on behalf of the 2nd to 4th respondents through resolutions, and could only withdraw the said affidavit through similar resolutions authorising him to do so; that Benson Karomo could not withdraw the suit on behalf of all of the plaintiffs as he was not a plaintiff in the suit, but merely an official of the 1st respondent; and that the appellant did not want the suit to be decided on



merits because it was afraid that the case had exposed the illegalities committed in its development. He urged the court to dismiss the appellant's application with costs.

12. The appellant's Motion was canvassed by way of written submissions and culminated in the impugned ruling and orders of the ELC (Naikuni, J.) dated 18th July 2022.
13. In his ruling, the learned Judge held that Benson Karomo could not withdraw the 1st respondent's suit and its supporting documents, as he was not the 1st respondent; that the only option available to Benson Karomo was to personally withdraw from the case; that office bearers of a society are granted their mandate through election held by the duly registered members, and not by the filing of returns; that the 1st respondent was a legal entity and had filed its returns belatedly; that the Affidavits verifying the Plaintiff and Amended Plaintiff were signed by Benson Karomo as the duly elected Chairman and Anish Doshi on the authority of the members; that the suit raised triable issues that ought to be determined on merit; and that the appellant's request to strike out the suit was unmeritorious. Accordingly, the learned Judge dismissed the appellant's application for lack of merit with costs to the 1st respondent, such costs to be borne by the appellant and the 5th respondent.
14. Dissatisfied with the learned Judge's decision, the appellant filed the instant appeal on the grounds set out in its Memorandum of Appeal dated 31st July 2023 faulting the learned Judge for: dismissing the appellant's application for orders to have the suit struck out or dismissed following withdrawal of the affidavit in support of the 1st respondent's application for temporary injunction dated 26th November 2020, withdrawal of the entire suit by the 1st respondent through an affidavit sworn on 7th January 2021 and filed in court on 8th January 2021, and following withdrawal of the 2nd to 4th respondents' suit vide the Notice dated 31st May 2021 and Amended on 7th June 2021; and for purporting to proceed with a matter that did not exist, the same having been withdrawn by the respondents. In view of the foregoing, the appellant seeks orders that the appeal be allowed, the impugned ruling be set aside and substituted for an order allowing the appellant's Motion dated 13th May 2021 with costs.
15. In support of the appeal, learned counsel for the appellant, M/s. Kenga & Company, filed written submissions and a list of authorities dated 25th October 2024 to which we will shortly return.
16. On their part, learned counsel for the 1st to 4th respondents, M/s. Oluga & Company, filed written submissions and a list of authorities dated 28th October 2024. Counsel submitted that the appellant has never been keen to have the suit decided on merits because it is afraid that the suit has exposed the illegalities it committed in the contested development.
17. To buttress their contention, counsel cited an earlier decision in *Karomo & another (Suing as the Chairman and Secretary, respectively of the New Nyali Residents Association) & 3 others v Pamwhite Limited & another* [2023] KEELC 18322 (KLR), a ruling in the same case dated 20th June 2023 where the ELC (Matheka, J.) dismissed an application by the appellant dated 16th November 2022 seeking to have the 1st to 4th respondents' amended and further amended complaints struck out for having been filed without leave.
18. From the record as put to us, the impugned ruling, the grounds on which the appeal is made and the rival submissions of learned counsel, we form the view that the appeal stands or falls on our determination of three main issues, namely: (i) whether Benson Karomo had locus standi to file the suit on his own behalf and on behalf of the 1st to 4th respondents; (ii) whether Benson Karomo had power to withdraw the affidavit in support of the 1st to 4th respondents' Motion dated 26th November 2020, or the entire suit; and (ii) whether his Notice of Withdrawal dated 31st May 2021 and amended on 7th June 2021 had the effect of extinguishing the entire suit.



19. On the 1st issue as to whether Benson Karomo had power or authority to withdraw the affidavit aforesaid, or the whole suit, the learned Judge had this to say:
- “31 ...it is noted that Mr. Benson Karomo was elected as the Chairman of the 1st Plaintiff on 24th April, 2018 and re-elected on 2nd April, 2019. The Court has been able to see the annexed copy of the Minutes by the 1st Plaintiffs to that effect marked as “HS-3”.
32. Additionally, the Honourable Court concurs with the 1st Plaintiff to the effect that by merely not filing of Returns to the Registrar does not confer one the officialdom of a Society. From the provision of the Act, office bearers are granted the mandate through election held by the duly registered members to the said Association and which he and Benson Karomo were elected as such officials. The Court disagrees that with the 1st and 2nd Defendants to the effect that the 1st Plaintiff was operating as an illegal entity. The illegality of a Society would be where it is not registered by the Registrar as [provided] for by the provisions of Section 4(1) of the Act. In any case, the Society, from the annexed copies, had filed its Returns only that it was done belatedly as the Chairman had not signed them.”
20. Faulting the learned Judge for his finding in that regard, counsel for the appellant submitted: that Benson Karomo was not the Chairman of the 1st respondent at the time of filing suit and/or signing of affidavits in support of the suit; that the evidence, which has not been contested, shows that Said Tahir was the chairman of that Association; that there was no competent suit, having been filed by a party without locus standi to bring the suit; that it is because of these revelations, amongst other reasons best known to Benson Karomo, that he fastidiously withdrew the entire case vide his affidavit to withdraw the case; and that it is upon these revelations that the Association hurriedly undertook a meeting, elected Hubert Seifert as the Chairman and, thereafter, sought to regularize the proceedings by amending the plaint, which was not possible because the suit was fatally defective, having been filed by a person without locus. Counsel cited the case of *Victory Soul Winning Centre v Simon Muiruri & others* [2017] eKLR for the proposition that a society cannot sue on its own, but through its officials.
21. In rebuttal, counsel for the 1st to 4th respondents submitted that it is not the filing of returns that made Benson Karomo and Hubert Seifert officials of the 1st respondent; that the two became officials of the 1st respondent association because they were duly elected as such by members of the 1st respondent; that the possible defect in the Verifying Affidavit sworn by Benson Karomo, if any, was cured when the Amended Plaint dated 21st December 2020 was filed; that the Amended Plaint is verified by the affidavits of both Anish Doshi and Hubert Seifert; and that the suit could not be struck out or dismissed because there is an Amended Plaint verified by Affidavits sworn by persons other than Benson Karomo.
22. Counsel further submitted that the 1st appellant did not elaborate its allegation that the 1st respondent was operating as an illegal society at the time of filing suit; that the allegation was left for conjecture and speculation and was rightly ignored by the trial court; that an unlawful society as defined in section 4 of the *Societies Act* as a society which is not registered, or which is not exempt from registration; that the 1st respondent, being a duly registered society, is not unlawful or illegal as the appellant wants the court to believe; that the consequences of failure to file returns is provided for in section 30(3) of the *Societies Act*; that the sanction is criminal in nature, and not civil; and that failure to file returns does not render a suit filed by an association invalid.
23. We hasten to observe that the record speaks for itself. In its Replying Affidavit, the 1st respondent annexed copies of its Annual General Meetings indicating that Benson Karomo was elected as the 1st respondent’s Chairman on 24th April 2018 and re-elected to the same office on 2nd April 2019. Those documents remained unchallenged. Instead, the appellant relied on a letter from the Assistant



Registrar of Societies dated 22nd December 2020 indicating that the 1st respondent's Chairman was one Said Tahir, and that the 1st respondent had not filed annual returns since 2015 contrary to the Societies Act.

24. Be that as it may, it is not lost on us that the information supplied by the Registrar of Societies cannot be reasonably relied upon as it was not up-to-date, and could only confirm the position with regard to the 1st respondent's officials in the year 2015, and not later. The suit in question was filed on 30th November 2020. From the evidence on record, Benson Karomo and Hubert Siefert were indeed the Chairman and Secretary of the 1st respondent as at the time of filing suit, having been duly elected as such in the 1st respondent's Annual General Meeting convened on 2nd April 2019.
25. Also annexed to the 1st respondent's replying affidavit was the 1st respondent's letter to the Registrar of Societies dated 4th February 2021 in which the 1st respondent belatedly attached its returns for the years 2015 to 2020, explaining the delay in submission attributable to the Chairman's refusal to sign the return forms as required, and indicating that the 1st respondent was unable to hold an AGM in 2020 due to the COVID 19 pandemic.
26. We take to mind the fact that officials of a society do not derive their mandate from their recognition by the Registrar as officials, but by virtue of their election as such by members of the society at the Annual General Meeting (AGM). Section 29(1) of the Societies Act (Cap. 108) provides that:
 29. Meetings of societies
 1. Every registered society shall, at least once in every year, hold a general meeting to which all its members shall be invited, and shall at such meeting—
 - a. render a full and true account of the moneys received and paid by the society, such account being audited in accordance with the rules of the society; and
 - b. cause to be elected or appointed all such officers, trustees and auditors and, where applicable, such committees as are required in accordance with the constitution and rules of the society.
27. The primacy of the election of officials at an AGM is further cemented in section 31 of the Act which provides that, where the Registrar has reasonable cause to believe that circumstances have arisen which render it expedient for the proper performance of his functions under the Act, he may require a society to furnish him with documents including “a true and complete copy of the minutes of any meeting held by the society at which officers of the society were elected or appointed or were ostensibly appointed or elected.”
28. In Francis Kirima M'Ikunyua & 2 others v Registrar of Societies & 10 others [2017] KEHC 8354 (KLR), Odunga, J. (as he then was) astutely observed that a conflict among members of a society as to the proper officials of the society can be easily resolved by “simply organising a proper and lawful AGM.”
29. The propriety or legality of the AGM conducted by the 1st respondent on 2nd April 2019, and at which Benson Karomo and Hubert Siefert were elected as Chairman and Secretary respectively was not contested by the appellant. Accordingly, there was no basis for the appellant's contention that Benson Karomo did not have the locus standi to file the 1st to 4th respondents' suit.



30. Turning to the 2nd issue as to whether Benson Karomo had power to withdraw the affidavit in support of the 1st respondent's Motion aforesaid and the suit as a whole, the learned Judge had this to say:

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“26. It is trite law that all the decisions and resolutions for the Society are collectively undertaken by all the registered members of the Society at the Annual General Meeting or special meeting. Thereafter, the three office-bearers – the Chairman, the Secretary and the Treasurer collectively are allowed to ratify the said decisions in terms of approving, signing and executing all the decisions of the Society on behalf of the members. For instance, the issues of being sued, suing, acquiring assets, borrowing or lending of finances. No individual official of a Society has this mandate at all.

27. Applying these principles to the instant case ... Mr. Karomo could never have committed the 1st Plaintiff Association on any policy or administrative decision such as this one or made any not happen on his own personal whim without the sanction of the Society through a resolution at the General Meeting of the membership and that of the other two executive officers – the Secretary and Treasurer collectively.

...there is no way that Mr. Karomo would be acting on behalf and for the 1st Plaintiff as was depicted [as] from the records [or] the filed pleadings, the Society had never made such a resolution allowing the withdrawal of any Supporting Affidavit. ...Mr. Karomo could never withdraw the entire of the 1st Plaintiff's suit as he was not the 1st Plaintiff. The only option available to him was to individually withdraw from the case. It is only the 1st Plaintiff that would withdraw its case.”

31. Disagreeing with the learned Judge, counsel for the appellant submitted that Order 25 rule 1 of the Civil Procedure Rules, 2010 provides guidelines on withdrawal of suits. Counsel cited the case of Beijing Industrial Designing & Research Institute v Lagoon Development Ltd [2015] eKLR for the proposition that, under Order 25 rule 1 of the Civil Procedure Rules, where a suit has not been set down for hearing, the plaintiff is at liberty, at any time, to discontinue the suit or to withdraw the claim or any part thereof.

32. According to counsel, by the time Benson Karomo purported to withdraw the suit, the same had not been set down for hearing, and it was within his right to withdraw it and, therefore, there was no suit that could be further amended by Hubert Seifert to sustain the cause of action on 22nd January 2021.

33. In reply, counsel for the 1st to 4th respondents submitted that the appellant contends that the entire suit was withdrawn by Benson Karomo; that the Notice of Withdrawal does not form part of the Record of Appeal; that what is before this Court is an Affidavit sworn by Benson Karomo on 7th January 2021 in which he avers that he has withdrawn his complaint against the appellant's project; that a suit which has been withdrawn is non-existent, and cannot be struck out on a formal application; that the fact that the appellant moved the court formally to have the suit struck out was in itself a confirmation that the suit was in existence and had not been withdrawn by Benson Karomo.

34. Counsel further submitted that the suit was brought by Benson Karomo “as Chairman of New Nyali Resident Association”; that a registered society sues through its officials; that the 1st Plaintiff in the case is New Nyali Resident Association (through its chairman and secretary), and that none of those



officials can purport to withdraw the entire suit; and that Benson Karomo could only stop participating in the proceedings and let the other officials proceed therewith.

35. According to counsel, Benson Karomo could not withdraw the entire suit on behalf of the remaining three Plaintiffs; that he was authorised to sign the verifying affidavit and swear the Supporting Affidavit on behalf of the 1st respondent pursuant to its written resolutions, and on behalf of the 2nd, 3rd and 4th respondents pursuant to their respective resolutions; that Benson Karomo could only withdraw the Supporting Affidavit with authority conferred by similar resolutions in that regard; and that the documents and pleadings aforesaid were not of his own, but of all the Plaintiffs on whose behalf he acted.

36. The question as to who may withdraw a suit or other proceedings finds answer in Order 25 rule 1 of the Civil Procedure Rules, which provides that:

Withdrawal by plaintiff [Order 25, rule 1]

At any time before the setting down of the suit for hearing the plaintiff may by notice in writing, which shall be served on all parties, wholly discontinue his suit against all or any of the defendants or may withdraw any part of his claim, and such discontinuance or withdrawal shall not be a defence to any subsequent action.

37. The affidavit sworn by Benson Karomo on 7th January 2021 in which he deponed that he had decided to withdraw his complaint and the suit thereon was not the proper manner of withdrawing the suit as contemplated by Order 25 rule 1, which requires the plaintiff to file and serve a Notice of Withdrawal of the suit. Moreover, Benson Karomo was not a plaintiff in the suit, but had filed the suit on behalf of the 1st respondent in his capacity as Chairman of the 1st respondent. The plaint clearly describes the 1st plaintiff as “the New Nyali Residents Association, a registered association of property owners and residents of the area known as New Nyali in Mombasa County, and is represented in this suit by its officials – BENSON KAROMO, the Chairman and HUBERT SEIFERT, the Secretary.” Neither the Chairman nor the Secretary by whom the 1st respondent was represented was a plaintiff in the suit.

38. In view of the foregoing, Benson Karomo lacked the capacity to unilaterally withdraw the 1st respondent’s suit without authority that would ordinarily be conferred upon him by a special resolution of the members of the 1st respondent association.

39. In *Victory Soul Winning Centre (suing through George Njoroge Muraya & 2 others (as its National Officials Trustees) v Simon Muiruri & 8 others* [2017] KECA 397 (KLR), this Court held that:

“So who is the plaintiff here? It can only be Victory Soul Winning Centre through its officials. In fact paragraph 1 of the amended plaint makes it plainly clear who the plaintiff is... It is therefore readily apparent that the officials named were not suing in their personal capacity but did so for purposes of satisfying legal requirement that a society cannot sue on its own but through its officials. Therefore, the officials were mere nominal or peripheral plaintiffs. They cannot therefore disengage themselves from that role and now purport to be the aggrieved persons and sue in that regard.”

40. In conclusion, we find no fault in the learned Judge’s holding that Benson Karomo had no authority to withdraw either the affidavit in support of the 1st respondent’s Motion for temporary injunction or the substantive suit.

41. On the 3rd and final issue as to whether the Amended Notice of Withdrawal had the effect of extinguishing the entire suit, counsel for the appellant submitted that there was no suit capable of being



salvaged by way of amendment in the manner sought by the “purportedly only remaining Plaintiff” as the 2nd,

3rd and 4th plaintiffs (now respondents) also filed notice of withdrawal of the suit.

42. In rebuttal, counsel for the 1st and 4th respondents submitted that the 2nd and 3rd respondents withdrew from the case, but that the 1st and 4th respondents remained.
43. We take to mind the fact that the Notice of Withdrawal dated 31st May 2021 and amended on 7th June 2021 clearly indicates that it was the 2nd and 3rd respondents who were withdrawing their case against the appellant and the 5th respondent; that the Notice of Withdrawal could not have had the effect of extinguishing the suit in view of the fact that the 1st and 4th respondents had not withdrawn their respective suits. Likewise, this ground of appeal fails.
44. Having considered the record of appeal, the grounds on which it was anchored, the impugned ruling, the respective submissions of learned counsel for the appellant and for the 1st to 4th respondents, the cited judicial authorities and the law, we reach the inescapable conclusion that the appeal fails and is hereby dismissed. Consequently, the ruling and orders of the ELC at Mombasa (L. L. Naikuni, J.) dated 18th July 2022 are hereby upheld.
45. Costs to the 1st to 4th respondents.
Orders accordingly.

DATED AND DELIVERED AT MOMBASA THIS 7TH DAY OF MARCH, 2025.

A. K. MURGOR

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JUDGE OF APPEAL

DR. K. I. LAIBUTA CARb, FCIArb.

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JUDGE OF APPEAL

G. W. NGENYE-MACHARIA

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

