



**Kenya Power and Lighting Company Limited Staff Retirement Benefits Scheme
Registered Trustees v County Government of Nairobi & another (Environment &
Land Petition E013 of 2024) [2025] KEELC 979 (KLR) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 979 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND PETITION E013 OF 2024
AA OMOLLO, J
FEBRUARY 26, 2025
IN THE MATTER OF THE SUPREMACY OF THE CONSTITUTION
UNDER ARTICLE 2 OF THE CONSTITUTION OF KENYA, 2010
AND
IN THE MATTER OF THE ENFORCEMENT OF ARTICLES 10, 22, 23, 39,
40, 42, 43, 46, 47, 66, 70, 73, 75 AND 232 OF THE CONSTITUTION OF
KENYA 2010
AND
IN THE MATTER OF SECTIONS 9, 36, 40, 41, 42, 58, 49, 63, AND 76 OF
THE WATER ACT, 2016, LAWS OF KENYA
AND
IN THE MATTER OF PART IV AND XVII OF THE WATER SERVICES
REGULATIONS, 2021
AND
IN THE MATTER OF THE ILLEGAL BLOCKAGE AND ARBITRARY
DISCONNECTION OF WATER AND SEWERAGE SERVICES ON L.R
NO. 209/16013 NAIROBI COUNTY

BETWEEN
KENYA POWER AND LIGHTING COMPANY LIMITED STAFF RETIREMENT
BENEFITS SCHEME REGISTERED TRUSTEES PETITIONER
AND



COUNTY GOVERNMENT OF NAIROBI 1ST RESPONDENT

NAIROBI WATER & SEWARAGE COMPANY 2ND RESPONDENT

RULING

1. I have considered the submissions raised by counsels for all the parties in respect of whether to grant interim reliefs or not.
2. The 1st Respondent's Counsels have taken two positions, first, that the garbage that was dumped has already been collected so issuing any orders will be in vain. Second, they argue that having filed a preliminary objection touching on the jurisdiction of this court, no orders can issue. The counsels for the 2nd Respondents in both petitions have also adopted the position that their preliminary objection should be heard first hence no interim orders can issue.
3. At this preliminary stage, I will not delved into the merits or otherwise of the Preliminary Objections raised particularly in respect to petition number E009 of 2025 between Kenya Power Ltd and the Respondent sued therein and who are the same Respondents in this petition number registered in the land division as E013 of 2025.
4. However, I am persuaded by the submissions of Prof Mumma for the Petitioner that the actions of the 1st and 2nd Respondents complained of extend to affect the environmental rights of parties who may not directly submit to the jurisdiction of Tribunals or bodies whether envisaged under article 189 of the *Constitution* or as are statutorily created and cited as section 30 of the *Intergovernmental Relations Act* or Section 121 of the *Water Act*.
5. The action of dumping garbage and disconnecting water supply and blocking sewer systems affects not just the petitioners utilizing the building but even members of the general public in the neighbouring buildings and their clientele. Whatever the reasons for their actions, the said actions of the Respondents cannot be justified as government body created by the law to uphold the rule of law and good governance.
6. Although the Respondents' counsels submitted from the bar that the offending garbage had been removed, there was nothing placed before this court in writing to resolve the conflicting positions taken by the parties. Secondly, none of the Counsels for the 2nd Respondents have submitted to reconnecting the water supply or unblocked the sewer lines.
7. The situation is dire and therefore calls for this court's intervention to give a temporary relief pending hearing of the application inter parties. I hold that it is in the Petitioner's and the public's interest that a mandatory injunction in the nature of conservatory orders sought be granted.
8. Therefore, I allow prayer (b) of the application dated 24.2.2025 by issuing the orders compelling the Respondents, their agents, employees, and or howsoever to forthwith remove if they have not, the garbage dumped at the entrance; unblock the entrances; reconnect the sewer line and resume the water supply to the Petitioner's properties known as Stima Plaza and Stima Plaza Annex situated on L.R. No. 209/16013 (the premises) along Kolobot road in Parklands area of Nairobi City County. The prayer to unclamp all vehicles legally parked in the impugned premises to be determined at the inter parties hearing of the main application.
9. The application is set down for inter parties hearing on a date to be agreed between the parties at the time of delivery of this ruling this afternoon.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF FEBRUARY, 2025.

A. OMOLLO

JUDGE

