



REPUBLIC OF KENYA



KENYA LAW

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Munikah & 3 others (Suing as the Personal Representatives and Administrators of the Estate of Grace Jewel Ayiemba alias Jewel Grace Ayiemba alias Jewel Grace Munikah) v Attorney General & 5 others (Environment and Land Case Civil Suit E001 of 2023) [2024] KEELC 6025 (KLR) (24 September 2024) (Ruling)

Neutral citation: [2024] KEELC 6025 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KWALE
ENVIRONMENT AND LAND CASE CIVIL SUIT E001 OF 2023

AE DENA, J

SEPTEMBER 24, 2024

BETWEEN

JAMES SIMON MUNIKAH 1ST PLAINTIFF
VIOLA JEANE RANGINYA 2ND PLAINTIFF
NELLY MUNIKAH 3RD PLAINTIFF
CHRISTOPHER MUYELA MUNIKAH 4TH PLAINTIFF
SUING AS THE PERSONAL REPRESENTATIVES AND ADMINISTRATORS
OF THE ESTATE OF GRACE JEWEL AYIEMBA ALIAS JEWEL GRACE
AYIEMBA ALIAS JEWEL GRACE MUNIKAH

AND

THE ATTORNEY GENERAL 1ST DEFENDANT
BENJAMIN NOBALLA AMONYI 2ND DEFENDANT
HIGGIN WAMBUGHA MWADILO 3RD DEFENDANT
DREAMS ODV LIMITED 4TH DEFENDANT
HAMAMAH LIMITED 5TH DEFENDANT
SIMON WACIRA MURIUKI 6TH DEFENDANT

RULING

1. This ruling is the subject of a preliminary objection dated 14th November 2023 and Notice of Motion dated 29/09/23. The application seeks the following orders; -



1. Spent
2. Spent
3. That this Honourable court be and is pleased to make and issue with immediate effect, which it hereby does, an order of injunction of Inhibition, inhibiting registration whatever/whatsoever, of any dealings and or transactions with and or in the parcel of land that is or was or ought to be comprised in Land title Deed Number Kwale/Mabokoni/600 which is or ought to belong to Grace Jewel Ayiemba holder of ID. No. XXXX/69 (now deceased) as the absolute registered proprietor and in particular plots or parcels subdivided therefrom numbers;-
 - i. Kwale/Mabokoni/2275 measuring eight decimal nought (8.0) hectares with a title deed S/No.3585199 given/issued in the name of Dreams ODV Limited
 - ii. Kwale/Mabokoni/2706 measuring four decimal one four nought (4.14) hectares with a title deed S/No.3974624 given/issued in the name of Hamamah Limited
 - iii. Kwale/Mabokoni/2705 measuring two decimal four one nought (2.41) hectares with a title deed S/No.3881197 given/issued in the name of Benjamin Nobolla Amonyi and Higgin Wambugha Mwadilo
 - iv. Kwale/Mabokoni/2938 measuring nought decimal five nought (0.50) hectares with a title deed S/No.3974624 given/issued in the name of Benjamin Nobolla Amonyi and Higgin Wambugha Mwadilo
 - v. Kwale/Mabokoni/2937 measuring two decimal three one (2.31) hectares with a title deed S/No.4315243 given/issued in the name of Simon Wachira Muriuki
2. The other orders above are sought to last until the determination of the suit. Others are orders of permanent and mandatory injunction directing the Defendants and their agents to cause to be removed from the suit lands any buildings, constructions materials machinery motor vehicles and any other belongings that may be lying on thereon. That the Chief Land Registrar and or the Land Registrar in charge of Kwale County Land Registry to produce to court certified copies all documents which have been in their custody relating to the suit property and purported disputed subdivisions herein and more specifically entry documents relevant thereto with effect from 21/12/1987 when the green card in respect of Kwale/Mabokoni/600 was opened in the name of Grace Jewel Ayiemba as the absolute proprietor of the suit land, other parcels derived from Kwale/Mabokoni/600 including the subdivisions herein, Land Control Board Consents for the subdivisions, transfers relating to the suit land.
3. The application is premised on the grounds on its face and depositions in the supporting affidavit of James Simon Munikah sworn on 22/9/23. These are that Kwale/Mabokoni/600 has been wasted and continues to be wasted after it was fraudulently subdivided and transferred to the 2-6th Defendants without the permission of the Applicants and or estate of the deceased. That the court has a duty to protect the property pending determination of this suit. That Kwale/Mabokoni/600 was given to Grace Jewel Ayiemba on 2/6/1968 by the Kwale Land Registry and she became the absolute proprietor and the land ought to be still registered in her name since she never transferred it during her lifetime. That Grace died on 10/4/2012 in New Jersey USA and Kwale/Mabokoni/600 was then intact and registered in her names which is further confirmed by Certificate of official search dated 13/01/2016 and that it was free from any encumbrances. That the intermeddling with the land was after her demise from and after 13/01/2016. That the grant of letters of administration having only been issued in December 2021 there could not have been any possible legal transactions pertaining Kwale/



- Mabokoni/600. That there are sufficient reasons to cast aspersions on any transactions purported to have been entered into between 10/4/2012 and 21/12/2021. That the Plaintiff has high chances and probability of success against the Defendants and the case will be rendered nugatory including irreparable loss if the orders sought are not granted.
4. The deponent states in the supporting affidavit that together with his siblings they were close to their deceased mother who disclosed to them everything about her business matters including the purchase of the Kwale/Mabokoni/600. That she had charged the parcel to Agricultural Finance Corporation but had repaid the loan before her demise as evidenced by a letter from the said bank dated 10/2/95. That in the course of preparing to file succession petition they discovered the title was not among the deceased documents. Concerned they engaged the services of Tyson Limited to conduct a physical inspection and search of the parcel which they did sometime in January 2016 and found it intact.
 5. It was also deponed that following grant of letters of administration on 21/12/21 the deponent and his siblings became empowered to sue and defend matters of the estate of their late mother. Soon thereafter they commissioned Tysons Ltd to establish the worth of the estate and open market value for the Kwale/Mabokoni/600. That Tysons upon site visit prepared a report which raised concern over the status of the property following information from the land registry on the subdivisions and sales herein and recommended investigations. It is stated that the deponent and his siblings are strangers to the subdivisions. That other than the charge to AFC their mother had never transacted on the parcel and AFC had not yet released the original title to her.
 6. The deponent added that their mother had no intentions of selling the land but intended to settle therein together with her family and also build a school or health care centre to serve the community and had sometime in June 2022 obtained a Land Control Board Consent to subdivide the land in two portions in this regard. That efforts to obtain information regarding the process of the subdivision from government agencies including several letters to the land registry have yielded no results. That loss of the property to fraudsters will make them suffer irreparable loss and damage, sentimentally and materially.
 7. The application is opposed by the 2nd and 3rd Defendants who are husband and wife, vide the replying affidavit of Benjamin Nobala Amonyi sworn on 14/2/24. It is deponed that they are the registered owners of Kwale/Mabokoni/600 having lawfully purchased the same from Grace Ayiemba Jewell. That they were bonafide purchasers having met the requirements to be demonstrated for one to rely on the defence of bonafide purchaser. That they complied with all conditions of the sale of the property. The deponents rely on the provisions of Sections 24 (a) and 26(1) of the *Land Registration Act* as to the interest conferred by registration. That the Plaintiffs have failed to prove fraud to defeat the title. That the application has not met the requirements for grant of the orders of injunction including those of permanent injunction. That they are not in possession. That final orders sought cannot be issued at interlocutory stage and must await hearing of the main suit. No special circumstances have been demonstrated.
 8. It is further deponed by the 2nd and 3rd Defendants that the vendor is not part of the proceedings and there is high chance the Plaintiff is an imposter trying their luck in the similarities of names. The application is termed defective for want of veracity as to the true identity of the deceased. There is no evidence that the vendor who dealt with the 2nd and 3rd Defendants is the same person as the deceased and no affidavit to this effect has been provided. No Kenyan National Identity card of the deceased has been produced except the passport which bears different names from the title and other documents of the deceased. It is stated that equity aids the vigilant and there is no reasonable explanation for to approach this court in the year 2023 when the deceased died in 2012. That the applicants rely on hearsay to support the application. A full grant ought to have been taken to grant them powers to



litigate over the suit property. That paragraph 17-19 of the supporting affidavit should be struck out for want of substance. That the issues raised in the application will be determined in the main suit and the application is premature. The court is invited to dismiss the application.

9. The application is opposed by the 4th Defendant through the replying affidavit of David Ciarrapica its sole director sworn on 2/2/24. The deponent explained the history, due diligence and the process undertaken in the purchase culminating to transfer to the 4th defendant of Kwale/Mabokoni/2275 from the 2nd defendant and which was hived from Kwale/Mabokoni/600. It is stated the 4th Defendant fulfilled all the requirements for the said transfer. That from the due diligence Kwale/Mabokoni/600 wholly belonged to the 2nd and 3rd Defendants who had the requisite authority to dispose of the same. That the allegations of fraud and criminal activities are unfounded backed with no evidence. That there is no threat of disposal as the 4th defendants reside thereon, has undertaken major development and conducts charitable activities. That there is no danger of waste or damage to the suit property. It is stated that the applicants have failed to demonstrate a prima facie case capable of success neither have they demonstrated a loss incapable of being repaired by way of damages. The court is invited to dismiss the application for failure to meet the requisite threshold for the grant of the orders sought.
10. The application is further opposed by the replying affidavit of Charo Mumba Loka sworn on 9/11/23 on behalf of the 5th Defendant in respect of Kwale/Mabokoni/2706. The allegations of fraud are denied. It is averred that the plaintiffs have not produced birth certificates to corroborate their relationship as children of the deceased neither had they produced gazette notice to attest loss of the original title for Kwale/Mabokoni/600 or any other document to corroborate the loss. That no letters of administration were tendered to prove they were rightful administrators and beneficiaries of the deceased. That the applicants have not demonstrated any legal or equitable right or irreparable injury or that the balance of convenience is in their favor.
11. The 6th Defendant opposed the application vide the Replying Affidavit of Simon Wachira Muriuki sworn on 2/2/2024. It is averred that the Plaintiffs have no locus standi to institute the proceedings. That they ought to have filed the suit in February 1995 when they discovered the title for Kwale/Mabokoni/600 was missing. There is no proof that the deceased was a genuine registered owner who acquired the property legally and procedurally since she did not have the original title and no reasons given for failure to collect it from AFC if at all it existed. That the dates of the entries in the title for Kwale/Mabokoni/600 as to date of its issue were contradictory to the averments by the Plaintiffs. The purposed consent to subdivide could not have issued when there was an encumbrance (charge). That the documents showed a lot of irregularities perpetrated by the deceased. That currently Kwale/Mabokoni/600 does not exist and there is no proof that the subdivisions were from the said title. That the injunction orders are based on conjecture and speculation. The deponent further states he is the bonafide purchase for value without notice of Kwale/Mabokoni/2937 any defects following proper due diligence and possession. The applicants have never been in possession and do not stand to suffer any loss if the orders are not granted. The 6th defendant is in possession and has invested heavily and shall suffer immensely. The court is invited to dismiss the application for failure to meet all the mandatory requirements for grant of the orders sought.
12. Applicant responded to all the above responses in the affidavit sworn on 18/3/24 by James Simon Munikah and the court has noted the responses therein. The 1st Defendant chose not to participate in the application.



Preliminary objection

13. The preliminary objection is raised by the 2nd and 3rd Respondents under the Oaths and Statutory Declaration Act. That the entire provisions of the Oaths and Statutory Declaration Act requiring an affidavit confirming the identity of a party, who has more than four names are offended. As a result, the suit is an abuse of the court process and the suit fatally defective. Further details are reiterated in the depositions of Benjamin Nobala Amonyi hereinabove.
14. The application and preliminary objection were heard by way of written submissions. The Plaintiffs submissions are dated 14/3/24, the 2nd & 3rd Defendants 14/3/24, 4th Defendants 25/03/24 and the 6th Defendants 2/2/24. There were no submissions on record for the 5th Defendant. The court has read and considered the submissions filed by the parties.

Analysis and Determination

15. The court will firstly proceed to determine if the preliminary objection raised herein is merited for the reason that my consideration of the application herein is dependent upon the courts finding on the preliminary objection. A preliminary objection has the potential of concluding the entire suit at this stage.
16. Is the preliminary objection properly raised? I will look at the characteristics of a preliminary objection. In *Nitin Properties Ltd v Singh Kalsi & Another* [1995] eKLR the court stated thus; -
 - a. "...A Preliminary Objection raises a pure point of law, which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion..."
17. It is submitted that the Oaths and Statutory Declaration Act provides that every person with a different name on different documents must swear an affidavit confirming the veracity of their identity as one and the same person. It is stated that the deceased Plaintiff has different names on each and every one of her documents making it necessary for her estate to ensure that there is an affidavit confirming she is one and the same person. The court notes the objector did not cite a specific provision of the law as rightly observed by the applicants in their submissions. I took time to peruse the Act and I found no such provision.
18. The court also had occasion to read the ruling in [*Kenya Federation of Labour & Another v Attorney General & 2 Others Cause No. 735 of 2012*](#) cited (see *Kenya Federation of Labour & another v Attorney General & 2 others* [2014] eKLR) and noted that it has no relevance to the present objection as raised as the issue for determination therein was whether a Motion without supporting affidavit is proper. In fact, the dictum attributed to the court was part of Ms. Guserwa submissions to an objection to affidavit commissioned by a lawyer in the same firm that prepared the affidavit.
19. Be that as it may I found it hard to understand how a deceased person would swear such an affidavit as referred by the objectors. For me looking at the pleadings the concern raised is the various names appearing in the deceased documentation vis a vis their resemblance to those of the vendor who allegedly held title Kwale/Mabokoni/600 and transferred the same to the 2nd and 3rd Defendants and whether all these names refer to the same person. This can only be ascertained at a full hearing where the parties are supposed to place evidence and material that will support their individual cases in this regard for consideration by the court. It is trite that a preliminary objection is on pure points of law, anything falling short of the same leads to interrogation of facts and calls for disqualification as a preliminary objection.



20. It is the finding of this court that the preliminary objection has not been properly raised.
21. The suit is also termed to be time barred. Referring to paragraphs 4,15 of the Plaintiffs supporting affidavit and 8-11 and 42(1) of the amended Plaint, the 6th Defendant averred that the Plaintiffs ought to have filed the suit on or before 10/2/2007 when the deceased was still alive and when they discovered the title for Kwale/Mabokoni/600 was missing. That the deceased knew of the alleged fraudulent actions at AFC. That leave by the court to file the suit out of time has not been obtained. It is true as submitted by the Plaintiffs that this objection came up in the submissions and not the pleadings. Jurisdiction is everything and if it has been raised this early then it behoves the court to consider the issue rather than lean on technicalities. In my humble view it is imperative to look at this issue in the totality of the facts of this case.
22. According to the Plaintiffs the cause of action occurred in the year 2019 when the defendants started re-surveying and subdividing the land. I note that M/s Tysons Ltd on behalf of the Plaintiff prepared a report in January 2016 which confirmed the property register was intact in terms of the registration of the deceased as its owner. Kwale/Mabokoni/600 was then registered in the names of the deceased as seen in the Certificate of official search dated 13/01/2016. Clearly this could not be during the deceased lifetime. Again to peg the cause of action to the year 2007 would be misplaced. I respectfully agree with the proposition that it is at the point of the alleged sale to the 2nd & 3rd Defendants and the subsequent subdivisions that the cause of action should be pegged. I have reviewed the title for Kwale/Mabokoni/600 in the names of the 2nd and 3rd Defendant. It is dated 10/01/2020 and the attendant certificate of official search and I'm emboldened that this suit is not time barred. That it is only in the subsequent report by Tysons dated 16/12/22 that it became apparent that Kwale/Mabokoni/600 had been subdivided and new titles issued to 3rd parties. Additionally, for purposes of fraud limitation starts running when fraud is discovered see the persuasive decision in Justus Tureti Obara v Koipei Tai [2014] eKLR.
23. Therefore in view of the above it is the finding of this court that this suit is not time barred.
24. Having dispensed with the preliminary issues I will now consider the application and whether it is merited. The application is brought under the provisions of Order 40 Rule 1, Section 26(1(a)(b) of the Land Registration Act, Section 52 of the Transfer of Property Act, the Fair Administrative Action Act (No. 4 of 2015) Section 1A, 1B and 3A of the Civil Procedure Act. I have seen the issues identified by the 2nd and 3rd Defendants and I must set the record straight. It is my view that for purposes of this application only issues (a) and (d) the former being on whether the threshold for the grant of orders of injunction have been met and the latter on whether the mandatory orders should be granted at interlocutory stage should be addressed. The rest of the issues identified are for the substantive hearing and I will not dwell on them.
25. I will first deal with the prayers of mandatory injunction directing the Defendants and their agents to cause to be removed from the suit lands any buildings, constructions materials machinery motor vehicles and any other belongings that may be lying on thereon. The principles that guide the grant of orders of mandatory injunction at interlocutory stage are now established. In Joseph Kaloki t/a Royal Family Assembly v Nancy Atieno Ouma [2020] eKLR cited by the 4th Defendant the court stated thus;
-
28. As this Court stated in Kenya Breweries Limited & another vs. Washington O. Okeyo [2002] eKLR a mandatory injunction can be granted on an interlocutory application as well as at the hearing but should not normally be granted in the absence of special circumstances but that if a case is clear and



which the court thinks it ought to be decided at once, a mandatory injunction will be granted at an interlocutory application.

29. The Court also stated in *Shariff Abdi Hassan v Nadhif Jama Adan* [2006] eKLR that:

“The courts have been reluctant to grant mandatory injunction at the interlocutory stage. However, where it is prima facie established as per the standards spelt out in law as stated above that the party against whom the mandatory injunction is sought is on the wrong, the courts have taken action to ensure that justice is meted out without the need to wait for full hearing of the entire case.”

26. The court of Appeal in the case of *Nation Media Group & 2 others v John Harun Mwau* [2014] eKLR had this to say; -

“It is trite law that for an interlocutory mandatory injunction to issue an applicant must demonstrate existence of and special circumstances. See *Kenya Breweries Limited v Washington Okeyo, Civil Application No. 332 Of 2000*.

Likewise, in volume 24 Halsbury’s Laws of England, 4th Edition paragraph 948, the learned authors state as follows:

“A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks it ought to be decided at once, or if the act done is simple and summary one which can be easily remedied, or if the defendant attempted to steal a march on the plaintiff.... a mandatory injunction will be granted on an interlocutory application.”

27. The question that I pose is whether this is a clear case warranting a decision to be made summarily in tandem with the related orders that have been sought. From the pleadings, affidavits and documents annexed, the ownership of the suit property is highly contested and can only be determined upon hearing the parties. Both parties and specifically the Plaintiffs, the 2nd and 3rd Defendants have presented documents of alleged ownership which must be tested in evidence. The parties in occupation have demonstrated their occupation and investments made on the property which the Plaintiffs want removed at the interlocutory stage which to me clearly are orders of eviction being granted without according the Respondents a right to be heard on merit. In doing so the court will have as well made a determination summarily that the respondents are not entitled to be on the suit property.

28. This court based on the foregoing declines to entertain the applicant’s invitation to make the mandatory orders sought herein at this interlocutory stage.

29. The Court will now proceed to consider the injunction orders sought. Order 40 Rule 1 of the Civil Procedure Rules 2010 gives the court discretion to grant an injunction as the court thinks fit where a property is in danger of being wasted, damaged, alienated, sale and disposition until the determination of the suit or until further orders of the court. Principles have also been set down by the courts to guide on the exercise of this discretion starting with the celebrated case of *Giella vs Cassman Brown* [1973] EA 358. An applicant must show a prima facie case with a probability of success, the applicant must demonstrate that they will suffer irreparable injury that cannot be adequately compensated by an award of damages if the court does not intervene by granting the injunction and where in doubt, the court will weigh and grant the orders based on the balance of convenience. All the conditions must be met separately.



30. I will not spend so much time on the orders sought. As I have already pointed out from the documents presented both the Plaintiffs and Defendants hold titles to the suit property including the alleged subdivisions. This means the Plaintiff has demonstrated a prima facie case. The Defendants equally. The court has also cautioned itself that at this stage the court should be careful not to touch on the merits of the case as this is for the full trial. It is established that, a prima facie case is one that need not be won. The court has considered the Plaintiffs case and from the material presented, other than the prima facie case, I have not seen a demonstration of any damage that is not capable of compensation by way damages. For me the balance of convenience and or inconvenience tilts in favor of those who are already in occupation – See the cases of Pius Kipchirchir Kogo v Fran Kimeli Tenai [2018] eKLR and Paul Gitonga Wanjau v Gathuthis Tea Factory Company Ltd and 2 others [2016] eKLR referred by the 2nd & 3rd Respondents.
31. In my view the court should focus more on the rationale for the provisions of orders 40 and which is to preserve the suit properties where there is danger of the property being damaged, alienated, sale among others. Specifically, I note that the 2nd and 3rd defendants claim that after allegedly purchasing Kwale/ Mabokoni/600, they subdivided it and sold to the 4th, 5th and 6th Defendants. The 4th Defendants plead the Defence of Innocent purchasers for value without notice though they assure they have no intention of selling their property. To me concerns of the suit properties being charged as security and the temptations of trying to mitigate loss by sale or further subdivision in view of the litigation cannot be ruled out. To me the Applicants apprehension is justified in this regard.
32. Given the circumstances herein, it will be proper for status quo orders to issue pending the hearing and determination of the suit as to the ownership including the identity of the deceased and whether she is the vendor who sold to the 2nd and 3rd Defendants. This position is supported by the 4th Defendant who has submitted that they could concede to the issuance of the prayer for status quo. The order of inhibition partly captures this proposal for status quo to the extent that it seeks the preservation of the registers herein. A quick look at the rationale and circumstances for issuing status quo orders.
33. In Thugi River Estate Limited & another v National Bank of Kenya Limited & 3 others [2015] e K.L.R. Justice Anguto (may his soul rest in peace) explained the circumstances under which orders for status quo may be issue thus -
- “Firstly, an order of status quo will issue through a judicial process. Where the court in exercise of its general or statutory jurisdiction grants orders for maintenance in situ of a particular state or set of facts... the second or alternative order for status quo is the one issued by the court as a case management strategy. It is issued to provide assistance to the case. It also maintains a particular state of affairs or set of facts. Unlike a conservatory order or injunctive order, it is not descriptive. It is originated either by the court or by the consent of the parties. Often the court would not have been moved by either party. The court then expects an existing state of affairs or facts be preserved until a particular occurrence or until the courts’ further orders. It is intended to also freeze the state of affairs. State of affairs however do not always remain static, so it is always crucial for the court to be very specific and neat in its description of what state of affairs is to be preserved.”
34. Persuaded by the above dictum and applying it to the facts of this case I must capture the status quo. The 4th Defendant depones that they reside on the property and have undertaken major development and conducts charitable activities. The 6th defendant depones he is in possession, has cleared the land, put up a fence and is undertaking farming. The applicants depones that upon a site visit by M/s Tysons Ltd they raised concern over the status of the property following information from the land registry



on the subdivisions and sales. It is therefore imperative that those in occupation remain in possession and utilizing the land in the manner they have always used, provided that no further development as at the time of the issue of these orders should be commenced or continued.

35. The following orders hereby issue; -

1. That the Preliminary objection dated 14/11/23 is hereby dismissed.
2. That pending the hearing and determination of this suit, an order hereby issues inhibiting registration whatever/whatsoever, of any dealings and or transactions with and or in the parcel of land that is or was or ought to be comprised in Land Title Deed Number Kwale/Mabokoni/600 and in particular plots or parcels subdivided therefrom numbers; -
 - i. Kwale/Mabokoni/2275 measuring eight decimal nought (8.0) hectares with a title deed S/No.3585199 given/issued in the name of Dreams ODV Limited
 - ii. Kwale/Mabokoni/2706 measuring four decimal one four nought (4.14) hectares with a title deed S/No.3974624 given/issued in the name of Hamamah Limited
 - iii. Kwale/Mabokoni/2705 measuring two decimal four one nought (2.41) hectares with a title deed S/No.3881197 given/issued in the name of Benjamin Nobolla Amony and Higgin Wambugha Mwadilo
 - iv. Kwale/Mabokoni/2938 measuring nought decimal five nought (0.50) hectares with a title deed S/No.3974624 given/issued in the name of Benjamin Nobolla Amony and Higgin Wambugha Mwadilo
 - v. Kwale/Mabokoni/2937 measuring two decimal three one (2.31) hectares with a title deed S/No.4315243 given/issued in the name of Simon Wachira Muriuki
3. There will be an order of status quo to be maintained by all the parties. For the avoidance of doubt the 2nd, 3rd, 4th, 5th and 6th Defendants to remain in the use and occupation of Kwale/Mabokoni/2275, Kwale/Mabokoni/2706, Kwale/Mabokoni/2705, Kwale/Mabokoni/2938 pending the hearing and determination of this suit.
4. On the production of documents by the Land Registrar this to me can be addressed during pretrial proceedings.
5. That costs of the application shall abide the outcome of this suit.

Orders accordingly.

RULING DATED SIGNED AND DELIVERED THIS 24TH DAY OF SEPTEMBER, 2024

.....
A.E DENA

JUDGE

Mr. Akbar for the Applicant

Ms. Buluma Holding brief for Kibet for 2nd Interested Party

Ms. Okoth for 3rd Defendant

MS. Asmaa – Court Assistant

