



Tugboat Enterprises Limited v Ngolo; Chembe (Official suing on behalf of Casuarina Self Help Group) (Interested Party) (Environment and Land Appeal E026 of 2020) [2024] KEELC 13830 (KLR) (10 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13830 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND APPEAL E026 OF 2020
EK MAKORI, J
DECEMBER 10, 2024**

BETWEEN

TUGBOAT ENTERPRISES LIMITED & 11 OTHERS PLAINTIFF

AND

RASHID KAJELA NGOLO & 12 OTHERS DEFENDANT

AND

SAMMY RAMADHAN CHEMBE (OFFICIAL SUING ON BEHALF OF CASUARINA SELF HELP GROUP) INTERESTED PARTY

RULING

1. My brother Njoroge J. already discussed the Notice of Motion dated 14th March 2023, and after adequately reviewing the applicable principles on joinder, which I need not state here, he concluded:

“Consolidation will only be ordered if there is a common question of law and fact in the suits, the reliefs or rights sought arise from the same or series of transactions, or for any other reason such as for convenience and to avoid a multiplicity of suits.

.....There is a mention of Plot No. 5466 both in the amended Petition and the Counterclaim. The basis of relief(s) sought in the counterclaim appears to be similar to the fact raised and the relief(s) sought in the Petition. It is evident, therefore, that some common questions of law and fact may arise in both suits, and the determination of one may, in one way or another, affect the other suits to some extent.

I have, however, noted that as the Petition is pending before my brother Justice E. Makori sitting in this station, and that it is an old matter, and being seized of the matter is able to give proper directions as to consolidation.”



2. I have looked at Petition 6 of 2015, which seeks to nullify allocations made to the Respondents in an adjudication to the detriment of the Petitioners. They say this was fraudulent, discriminatory, and unconstitutional.
3. ELC No E026 of 2020 seeks almost similar prayers. We will discuss how the Plaintiffs acquired their titles. The counterclaim seems to take us back to the prayers sought in the petition.
4. It is crucial to note that the petition and the civil suit herein cannot be merged. However, to ensure the efficient use of time and to avoid a conflict of orders, it is advisable to have the two matters heard concurrently.
5. However, I must express my concern about the delay in the disposal of the petition since 2015. Ideally, a petition should be disposed of within a year, and it is important to address this delay.
6. Costs in the cause.

DATED SIGNED AND DELIVERED VIRTUALLY THIS 10TH DAY OF DECEMBER 2024.

E. K. MAKORI

JUDGE

In the Presence of:

Mr. Otara & Ms. Metto for the 1st Defendants

Ms. Mugambi H/B for Mr. Kiarie for the Plaintiffs

Mr. Ole Kina, for the Respondents in Petition. No. 6 of 2015

Abdrashid: Court Assistant

