



Lund-Henriksen & another (As Administrators of the Estate of Philp Denis Nagenda Wilson) v Kabaria & 2 others (Environment & Land Case E320 of 2021) [2025] KEELC 3386 (KLR) (27 March 2025) (Ruling)

Neutral citation: [2025] KEELC 3386 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E320 OF 2021
OA ANGOTE, J
MARCH 27, 2025**

BETWEEN

**BIRGITHE LUND-HENRIKSEN 1ST PLAINTIFF
ELI PAASCHE DREYER 2ND PLAINTIFF
AS ADMINISTRATORS OF THE ESTATE OF PHILP DENIS NAGENDA
WILSON**

AND

**ALICE WAIRIMU KABARIA 1ST DEFENDANT
CHIEF LANDS REGISTRAR 2ND DEFENDANT
THE ATTORNEY GENERAL 3RD DEFENDANT**

RULING

1. Vide a Notice of Motion dated 2nd May, 2024, brought pursuant to the provisions of Sections 1A and 3A of the *Civil Procedure Act*, Cap 21, Order 1 Rule 10(2), and 51 Rule 1 of the Civil Procedure Rules, the Plaintiffs/Applicants' seek the for the following reliefs:
 - i. That this Honourable Court be pleased to grant leave to the Plaintiff to amend the Amended Plaintiff in accordance with the draft Further Amended Plaintiff annexed hereto.
 - ii. That the annexed draft Further Amended Plaintiff be deemed as duly and properly filed upon payment of the requisite court filing fees.
 - iii. That this Honourable Court be pleased to issue an order granting the Plaintiff leave, through her caretaker, to display a copy of this Honourable Court's order dated 17th November, 2021



on the external part of the suit premises for the purpose of preventing fraud and alerting potential buyers to the existing legal dispute.

- iv. That this Honourable Court be pleased to issue an order directing the Defendants, their agents, and any persons acting under their instructions to cease and desist from interfering with the Plaintiff's guard and caretaker stationed outside the suit premises.
 - v. That this Honourable Court be pleased to issue an order directing the OCS of Kilimani Police Station to provide assistance in enforcing orders 4 and 5 above.
 - vi. That the costs of this Application be borne by the 1st Defendant.
2. The Application is based on the grounds on the face of the Motion and supported by the Affidavit of Birgithe Lund-Henriksen, one of the Plaintiffs and a co-Administrator of the Estate of Philip Nagenda Wilson of an even date.
 3. The 1st Plaintiff deponed that at the time of his death, the deceased was the lawful and duly registered owner of all that parcel of land known as L.R No 1/414(Original number L.R No 1/23/3), (hereinafter the suit property) having purchased the same from Neville Anthony Duorado and Maria Aldonca Duorado.
 4. She stated that on 17th November, 2021, this court granted them inter-alia, temporary injunctive orders restraining the 1st Defendant or any person acting under her authority from interfering with the suit property and that on the 23rd August, 2021, the 1st Defendant forcefully and illegally took possession of the suit property on the strength of orders issued without jurisdiction in CMCC E287 of 2021- Alice Wairimu Kabaria vs John Muriithi and Clement Ngugi, which suit has since been withdrawn.
 5. According to the 1st Plaintiff, despite the orders of this court, the 1st Defendant has continued to bring purchasers to the property with a view to selling the same; that the 1st Defendant, not holding a legal title to the suit property and not being in possession thereof by lawful court orders is trespassing and that in a bid to protect the property, she instructed Counsel to caution the public about the 1st Defendant vide an advert which was placed in the dailies on the 7th May, 2021 and that a hard copy of the order was also placed on the suit premises.
 6. According to Ms. Henriksen, the 1st Defendant has continually removed the copy of the order hung on the property and they have on several occasions complained to the Police and that so as the public is not conned, she hired a guard and caretaker who are permanently stationed outside the suit premises to warn people taken to the property that there is a court order in respect to the same.
 7. Ms. Henriksen contends that the Directorate of Criminal Investigations has confirmed that the 1st Defendant's conveyance is a forgery; that vide another forged conveyance dated 3rd December, 2015, two persons by the names Moses Mburu Njambi and Elijah Mwenesi Hamisi are falsely claiming to have purchased the suit property from the deceased and are in the process of selling and transferring the same; that the aforesaid are the proposed 4th and 5th Defendants and that she has instructed her Advocates to report the matter to the DCI for immediate investigations.
 8. She urged that in view of the foregoing, the 4th and 5th Defendants are necessary parties to enable the court effectually and completely adjudicate over the matter and that the 1st -3rd Defendants stand to suffer no prejudice if the proposed Defendants are enjoined in the suit.
 9. In response to the Motion, the 1st Defendant swore a Replying Affidavit on 28th October, 2024. She deponed that the present Motion constitutes an abuse of judicial process and is meant to prejudice, embarrass or delay the fair trial of the matter; that the deponent of the Affidavit in support of the



present Motion having not been in the country on the 2nd May, 2024, cannot have deposed to the Affidavit and that as such, the Motion is founded on a falsified affidavit and is consequently defective.

10. According to Ms. Kabaria, the foregoing notwithstanding, the averments in the Supporting Affidavit are unfounded as she is the registered proprietor of the suit property and is in possession and control thereof having acquired the same from the deceased, Dennis Nagenda Wilson who, during his lifetime voluntarily transferred the same to her vide a conveyance dated the 24th April, 2017.
11. She deponed that the report alluded to by the Plaintiffs cannot be the basis of challenging her lawfully acquired property as it purports to rely on allegedly known signatures of the deceased from copies of the transfer and sale agreement dated 22nd August, 2017; that the agreement of 22nd August, 2017 is not a legitimate source of known signature as the travel history of the deceased shows he was not in the country on the said date and that as regards the transfer, the same is fundamentally different from the transfer documents obtained by her from the lands registry so as to raise doubts as to the authenticity of the documents referenced by the Plaintiffs.
12. Ms. Kibaria stated that contrary to the Plaintiffs' assertions, she made a complaint relating to persons who were causing disturbance on the suit land in a manner likely to cause a breach of peace, which complaint was investigated by the police and that the said persons were charged in Kibera Chief Magistrates Court Criminal Case No 141 of 2024, which case is still pending before the court.
13. The 1st Defendant stated that she does not know and has never met the alleged Moses Mburu Njambi and Elijah Mwenesi Hamisi and they have no claim over the property and that the Plaintiffs' attempts to introduce them is aimed at delaying the matter.
14. The 1st Plaintiff filed a Supplementary Affidavit on the 21st February, 2025. She deponed that it has become acceptable practice post covid-19 to sign an affidavit virtually in line with modern technological trends and that prior to the signing of the Supporting Affidavit, her Advocates organized for a virtual meeting on Google Meets platform with Mr. Mwangi Wahome, a commissioner of oaths to whom she was introduced and identified as the deponent.
15. She stated that the commissioner read out to her the statements made in the draft Supporting Affidavit after which he inquired on whether she understood, believed and agreed with them which she responded in the affirmative; that her Counsel thereafter sent her the Supporting Affidavit for her signing and she sent it back for commissioning and that the allegations that the same is incompetent are unfounded.
16. According to Ms. Henriksen, the 1st Defendant's Replying Affidavit is based on falsehoods and is an attempt to hoodwink the court; that she has adduced sufficient evidence showing that the 1st Defendant did not legitimately acquire the suit property and that as recently as 12th February, 2025, the records in the land's registry show the deceased as the property's registered owner.
17. She averred that the change in the deceased's signature between 1986 and 2017 does not in itself evince forgery; that as explained in IP James Mutua's report, the parameters in detecting fraud are based on factors such as execution of connecting strokes, pen pressure patterns, baseline alignments, structural size and designs, pen lifts and pen speeds.
18. It was her deposition that contrary to her averments, the 1st Defendant was not the complainant, rather, it was one Mache Koech Kigen, a stranger to the suit; that the persons charged with causing the disturbance being Benjamin Chege, Johnstone Nzori, Nicholas Ochieng, Kelvin Wanjala, Bruno Omondi, Abdikarim Jafar, Dalmar Omar, Nicholas Muturi and Tobias Oduor, as set out in the charge



sheet are equally strangers to the suit and that the complaint and charge have nothing to do with the suit.

19. She reiterated that the proposed Defendants are, like the 1st Defendant, claiming ownership of the suit property and are necessary parties herein. None of the other parties responded to the Motion.

Submissions

20. The Plaintiffs' counsel filed submissions on the 20th February, 2025. It was submitted that the Affidavit in support of the Motion is not defective on account of having been deponed to virtually; that the deponent is a single parent residing in Norway with two school going children and cannot constantly travel to Kenya and that she is nevertheless keen to defend her right to property.
21. Reliance in this respect was placed on the cases of ED Foods S.R.L vs Africas Best(PTY) Ltd at the Gauteng Division of the High Court of South Africa; Andrea Moretti and Elena Dardanelli and 5 Others vs Jokafa Limited and Pasquale Tiritto & 2 Others.
22. It was submitted that nonetheless, pursuant to Order 19 Rule 7 of the Civil Procedure Rules, the court can receive an affidavit notwithstanding any defect or irregularity in form and that the deponent is willing to appear in court virtually or physically if need be to stand by the averments in the Supporting Affidavit entirely dispensing with the need to dismiss the Motion.
23. Counsel submitted that the law with respect to joinder of Defendants is found in Order 1 Rule 3 of the Civil Procedure Rules; that Order 1 Rule 10(4) of the same rules stipulate that a plaint may be amended as necessary when a Defendant is added and that as explained in *Kingori vs Chege & 3 Others*(2002)2 KLR 243, the Intended Defendants are necessary and their joinder will enable the court effectively and completely adjudicate upon and settle all questions involved in the suit.
24. Counsel urged that the proposed joinder will prevent a multiplicity of suits in line with Section 1 of the *Civil Procedure Act* which mandates the just, expeditious, proportionate and affordable resolution of civil disputes and that further, the proposed joinder will not prejudice any of the parties. In support of this contention, Counsel cited the case of *Institute for Social Accountability & Another vs Parliament of Kenya & 3 others* [2014] eKLR.
25. It was submitted that the Defendants actions in attempting to deal with the suit property despite the injunctive orders on the 17th November, 2021 is tantamount to contempt of court. It was submitted that the court should order the OCS Kilimani to enforce its orders issued on the 17th November, 2021 by all means necessary including arresting the 1st Defendant.
26. The 1st Defendant filed submissions on the 10th March, 2024. Counsel submitted that the law governing affidavits in this jurisdiction is the *Oaths and Statutory Declarations Act*, the Oaths and Statutory Declaration Rules as well as the Public Notaries Act and that as expressed in *Mary Gathoni & Another vs Frida Ariri Otolo & Anor*[2020]eKLR, the law envisages that a deponent and the commissioner of oaths must both be present at the same place at the same time.
27. It was submitted by counsel that having conceded that she was out of the jurisdiction as at the time of the swearing in, the same is fatally defective; that further, having been outside the country, the affidavit ought to have been commissioned by a notary public.
28. Counsel urged that the persons sought to be joined are strangers to the 1st Defendant; that the aforesaid parties are not mentioned in ELC Petition number E065 of 2024 which relates to the same subject property and seeks essentially the same orders as herein and that the foregoing proves the want of bona fides by the Plaintiffs.



Analysis and Determination

29. Having considered the Motion, Affidavits in support and in opposition thereto and submissions, the issues that arise for determination are:
- i. Whether the Motion is competent?
 - ii. Whether leave should be granted to the Plaintiffs to further amend the Complaint dated the 31st August, 2021.
 - iii. Whether the Plaintiffs should be granted leave to display a copy of this court's orders of 17th November, 2021 on the suit premises?
 - iv. Whether the court should issue orders restraining the 1st Defendants' interference with the Plaintiffs' guard stationed outside the suit property?
30. The 1st Defendant seeks to impugn the present Motion. She contends that at the time the deponent herein, Ms Brigithe Lund-Henriksen, deposed to the same, being on the 2nd May, 2024, she was not in the country and that as such, the application is founded on a falsified Supporting Affidavit rendering the Motion fatally defective.
31. In response to this contention, it was conceded by Ms Henriksen that she was not in the country on 2nd May, 2024. She stated that nonetheless, prior to the signing of the Supporting Affidavit, her Advocates organized for a virtual meeting on Google Meets platform with Mr. Mwangi Wahome, a commissioner for oaths to whom she was introduced and identified as the deponent.
32. Further, she deposed, the commissioner read out to her the statements made in the draft Supporting Affidavit after which he inquired whether she understood, believed and agreed with them to which she responded in the affirmative and that her Counsel thereafter sent her the Supporting Affidavit for her signing and she sent it back for commissioning.
33. The law on commissioning of affidavits is the [Oaths and Statutory Declarations Act](#), Cap 15, Laws of Kenya. Section 4 (1) of the [Oaths and Statutory Declarations Act](#) provides:
- “ A commissioner for oaths may, by virtue of his commission, in any part of Kenya, administer any oath or take any affidavit for the purpose of any Court or matter in Kenya, including matters ecclesiastical and matters relating to the registration of any instrument, whether under an Act or otherwise, and take any bail or recognizance in or for the purpose of any civil proceeding in the High Court or any subordinate court.”
34. Whereas Section 5, states as follows:
- “ Every Commissioner for Oaths before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat or attestation at what place and on what date the oath or affidavit is taken or made.”
35. Rule 7 of the Oaths Rules provides:
- “ A commissioner for oaths before administering an oath must satisfy himself that the person named as the deponent and the person before him are the same, and that such person is outwardly in a fit state to understand what he is doing.”



36. It is apparent from the foregoing that the general rule is that an affidavit must be sworn in the physical presence of a commissioner for oaths. The question that lends itself is whether a virtual deposition as herein renders the same fatal.
37. The courts have had the opportunity to weigh on this issue. On one hand, some courts have affirmed the traditional rule that affidavits must be sworn in the physical presence of a commissioner for oaths, as evidenced in *Joan Akoth Ajuang & another v Michael Owuor Osodo the Chief Ukwala Location & 3 Others; Law Society of Kenya & another* [2020] eKLR, where the court held as follows:
- “As correctly submitted by the 4th Respondent, the *Oaths and Statutory Declarations Act* and Rules do not contemplate electronic administration of oaths and therefore the Affidavit in support of the petition is fatally defective and incapable of cure by application of Article 159(2) (d) of *the Constitution*.”
38. The court in *Dardanelli & 6 others vs Tilito & 3 Others* (Land Case E041 of 2024)[2025] KEELC 392 (KLR)(6 February 2025) (Ruling) stated:
- “In conclusion, in this court’s view, an affidavit procured in the manner alluded to by the counsel for 1st and 2nd defendants would only qualify as a proper affidavit provided it is accompanied by the appropriate certificate under Section 106 B. It is the opinion of this court that lack of a certificate or certificates under Section 106 B with respect to the process followed in procuring the present affidavit or the procurement of the attendance of the deponent at the commissioning table is fatal and the said affidavit must be struck out.”
39. Taking a contrary position, the court in *Mghendi v Sports Disputes Tribunal; Oriku & 15 Others (Interested Parties) (Judicial Review E001 of 2024)* [2024] KEHC 3220 (KLR) (4 April 2024) (Ruling) acknowledged the increasing use of technology in judicial processes, particularly following the COVID-19 pandemic. It referred to Section 27 of the *High Court (Organization and Administration) Act, 2015*, which supports automation and the use of ICT in court processes, and the Practice Directions to Standardize Practice and Procedures in the High Court (Gazette Notice No. 189 of 2022), which allow for virtual proceedings, including oath administration.
40. The court emphasized that statutory language, including the use of the word “shall,” is not always strictly mandatory but can be interpreted as directory depending on legislative intent and context. Additionally, the court noted that Order 19 Rule 7 of the Civil Procedure Rules as read together with Section 72 of the *Interpretation and General Provisions Act* permits the acceptance of affidavits despite technical irregularities, as long as they do not mislead or affect the substance of the case.
41. Based on this reasoning, the court concluded that the affidavit sworn virtually was not necessarily defective, as there was no evidence that it was intended to mislead or that its virtual execution affected its substance.
42. To begin with, the court does not consider that the failure to commission an affidavit is a mere technicality. It is a fundamental requirement for an affidavit to be valid and admissible as evidence. It is not the execution of the written statement by the deponent which makes it an affidavit, but its execution in the presence of the officer authorized in law to commission oaths, who confirms the making of the affidavit by appending his signature and affixing his stamp.
43. In the circumstances, Ms Henriksen has laid out the manner in which she virtually deposed to the affidavit in the presence of the commissioner for oaths and has adduced, vide the Supplementary Affidavit, the certificate of electronic evidence with respect to how the affidavit was electronically



transmitted and stored pursuant to the provisions of Section 65(8) and 106B(4) of the Evidence Act. The court finds that the affidavit is proper.

44. In view of the court's finding above, and given that the deposition was conducted virtually, the court finds no merit in the contention that the affidavit is fatal for the reason that it was deposed to before a commissioner rather than a notary public.

45. The general power of the court to amend pleadings is drawn from Section 100 of the Civil Procedure Act, Cap 21 which provides as follows:

“The court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceeding.”

46. Further guidance is found in Order 8 Rules 3(1), (2) and (5) of the Civil Procedure Rules, 2010 which provides:

“(3) Subject to Order 1, rules 9 and 10, Order 24, rules 3, 4, 5 and 6 and the following provisions of this rule, the court may at any stage of the proceedings, on such terms as to costs or otherwise as may be just and in such manner as it may direct, allow any party to amend his pleadings.

(3) Where an application to the court for leave to make an amendment such as is mentioned in subrule (3), (4) or (5) is made after any relevant period of limitation current at the date of filing of the suit has expired, the court may nevertheless grant such leave in the circumstances mentioned in any such subrule if it thinks just so to do.

“(3)(5) An amendment may be allowed under subrule (2) notwithstanding that its effect will be to add or substitute a new cause of action if the new cause of action arises out of the same facts or substantially the same facts as a cause of action in respect of which relief has already been claimed in the suit by the party applying for leave to make the amendment.”

47. Whereas Order 8 Rule 5(1) provides:

“For the purpose of determining the real question in controversy between the parties, or correcting any defect or error in any proceedings, the court may either on its own motion or on the application of any party order any document to be amended in such manner as it directs and on such terms as to costs or otherwise as are just.”

48. Speaking to this, the Court of Appeal in *Elijah Kipngeno Arap Bii vs Kenya Commercial Bank Limited* [2013] eKLR which affirmed that the law applicable to amendment of pleadings is as stated in *Bullen and Leake & Jacob's Precedents of Pleadings – 12th Edition* and captured in the Court of Appeal decision in *Joseph Ochieng & 2 others vs First National Bank of Chicago, Civil Appeal No. 149 of 1991* thus:

“The ratio that emerges out of what was quoted from the said book is that powers of the court to allow amendment is to determine the true, substantive merits of the case; amendments should be timeously applied for; power to so amend can be exercised by the court at any stage of the proceedings (including appeal stages); that as a general rule, however late, the



amendment is sought to be made it should be allowed if made in good faith provided costs can compensate the other side; that the proposed amendment must not be immaterial or useless or merely technical; that if the proposed amendments introduce a new case or new ground of defence it can be allowed unless it would change the action into one of a substantially different character which could more conveniently be made the subject of a fresh action; that the plaintiff will not be allowed to reframe his case or his claim if by an amendment of the plaint the defendant would be deprived of his right to rely on Limitation Acts.”

49. What emerges from the foregoing is that the court’s discretion to amend pleadings at any stage of the proceedings is wide and unfettered except that it should be exercised judicially and upon the defined principles so as to bring out the real issues in controversy between the parties.

50. The nature of the amendment sought by the Plaintiffs is to join Elijah Mwenesi Hamisi and Moses Mburu Njambi as Defendants in the case. The court’s jurisdiction in this respect is found in Order 1 Rule 10 (2) of the Civil Procedure Rules which stipulates as follows:

“(2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

51. With respect to joinder of the Defendants, Order 1 Rule 3 of the Civil Procedure Rules is instructive and states thus:

“All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if separate suits were brought against such persons any common question of law or fact would arise.”

52. In *Pravin Bowry vs John Ward and Another* [2015] eKLR, the Court of Appeal, while considering the principles to be considered when parties are sought to be joined referenced the Ugandan case of *Deported Asians Custodian Board vs Jaffer Brothers Ltd* [1999] 1 E.A. 55 (SCU) where the court stated as follows:

“A clear distinction is called for between joining a party who ought to ‘have been joined as a defendant and one whose presence before the court is necessary in order to enable the court effectually and completely adjudicate upon and settle all questions involved in the suit. A party may be joined in a suit because the party’s presence is necessary in order to enable the court effectually and completely adjudicate upon and settle all questions involved in the cause or matter...”

For a person to be joined on the ground that his presence in the suit is necessary for effectual and complete settlement of all questions in the suit one of two things has to be shown. Either it has to be shown that the orders which the plaintiff seeks in the suit, would legally affect the interests of that person, and that it is desirable, for avoidance of multiplicity of suits, to have such person joined so that he is bound by the decision of the court in that suit. Alternatively, a person qualifies (on an application of a defendant) to be joined as a co-defendant, where it



is shown that the defendant cannot effectually set a defence he desires to set up unless that person is joined in it, or unless the order to be made is to bind that person.”

53. By way of brief history, the Plaintiffs instituted this suit seeking inter-alia, a declaration that they are the rightful owners of the property and any purported transfer of the suit property is null and void, permanent injunctive orders restraining interference with the suit property, mesne profits and general damages. They allege fraud by the Defendants resulting in the transfer of the property from the deceased to the 1st Defendant.
54. According to the Plaintiffs, vide a forged conveyance dated the 3rd December, 2015, the intended 3rd and 4th Defendants also claim the property alleging to have purchased the same from the deceased. They have in this respect adduced a Deed of Conveyance dated the 3rd December, 2015 in respect of the suit property referencing a transfer between the deceased and the aforesaid intended Defendants.
55. While the 1st Defendant claims that she does not know the intended Defendants, she has not impugned the evidence adduced by the Plaintiffs with respect to the intended Defendants’ claim.
56. Considering that what is in issue is the ownership of the suit property, and there being evidence that the Intended Defendants are laying claim to the same by virtue of an alleged conveyance, their presence in these proceedings is crucial to enable the court effectually and completely adjudicate upon and settle all questions with respect to the suit property.
57. Additionally, the court does not consider that the joinder will prejudice any party. As expressed by the Court of Appeal in *JMK vs MWM & Another* [2015] eKLR, citing with approval the case of *Central Kenya Ltd. vs Trust Bank & 4 others*, [CA No. 222 of 1998](#);

“ all amendments should be freely allowed and at any stage of the proceedings, provided that the amendment or joinder as the case may be, will not result in prejudice or injustice to the other party which cannot properly be compensated for in costs.”
58. In the circumstances, the court finds that the Plaintiffs have made out a case for the inclusion of the intended Defendants who are necessary parties to this suit so that the court can effectually determine the dispute between all the parties.
59. The Plaintiffs have asked this court to grant them leave to display a copy of this court’s order issued on the 17th November, 2021 on the external part of the suit premises. According to them, they placed the court orders issued on the 17th November, 2021 on the external part of the suit property in a bid to secure the property. However, the 1st Defendant has been removing the same.
60. Indeed, on the 17th November, 2018, this court issued temporary injunctive orders restraining interference with the suit property pending determination of the suit. The court sees no reason why a copy thereof should not be placed on the property and finds this plea to be merited.
61. The Plaintiffs have also sought for an order to have the 1st Defendant restrained from interfering with the security guards they have stationed on the suit property. They argue that the presence of the guards is necessary to safeguard the premises and ensure compliance with the court’s previous orders restraining any interference with the property.
62. This court opines that the issuance of injunctive orders is, in itself, a sufficient legal safeguard to protect the property. The court’s orders remain binding on all parties, and any violation thereof would constitute contempt of court, which carries legal consequences. Therefore, the physical presence of



security guards stationed outside the premises is not necessary for the enforcement of the court's directive.

63. In the end, the Motion partly succeeds and the court grants the following orders:

- i. Leave be and is hereby granted to the Plaintiffs to amend the Amended Plaint in accordance with the draft Further Amended Plaint within 14 days.
- ii. Leave be and is hereby granted to the Plaintiffs, through their caretaker, to display a copy of this Court's order dated 17th November, 2021 on the external part of the suit premises where it shall remain pending determination of this suit.
- iii. The OCS- Kilimani Police Station is hereby directed to provide assistance in enforcing order (ii) above.
- iv. Costs of the application shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 27TH DAY OF MARCH, 2025.

O. A. Angote

Judge

In the presence of;

Ms. Olembo for Plaintiff

Mr. Githinji for 1st Defendant

Mr. Allan Kamau for 2nd Defendant

Court Assistant: Tracy

