



**Mukui v Bridge Developers Limited & 3 others (Miscellaneous Case E001 of 2024) [2025] KEELC 3024 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 3024 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
MISCELLANEOUS CASE E001 OF 2024  
AA OMOLLO, J  
MARCH 27, 2025**

**BETWEEN**

**HELLEN MUKAMI MUKUI ..... APPLICANT**

**AND**

**BRIDGE DEVELOPERS LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**MISHEK MURIIRA RIUNGU ..... 2<sup>ND</sup> RESPONDENT**

**LAND REGISTRAR, NAIROBI ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**ATTORNEY GENERAL ..... DEFENDANT**

**RULING**

1. The matter for determination is the Notice of Preliminary Objection dated 7<sup>th</sup> July 2024 filed by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on the grounds that:
  - i. this Court lacks the requisite Jurisdiction to hear and determine this suit,
  - ii. the Applicant lacks the requisite locus standi to commence the present proceedings and
  - iii. that the Application is a manifest abuse of the court process as the Applicant has not exhausted all the avenues available to resolve this issue particularly the procedures provided for in the company's Memorandum and Articles of Association.
2. The Applicant filed submissions dated 28<sup>th</sup> October 2024 in support of the preliminary objection and submitted that the PO is merited and should be upheld on the grounds of lack of territorial jurisdiction. They emphasized that the Environment and Land Court's jurisdiction, as provided for under Article 162(2) of the *Constitution* and the *Environment and Land Court Act*, is confined to hearing civil disputes relating to land within its territorial boundaries.



3. The Respondents through the PO assert that the property in question, grant number I.R "28038," is located in Mavoko within Machakos County, and thus the Machakos Environment and Land Court, not the Nairobi Milimani court, should have jurisdiction. They place reliance to the case of *The Owners of Motor Vessel "Lillian S" v Caltex Oil Kenya Ltd* (1989) KLR 1, where Nyarangi JA held that "jurisdiction is everything," and if a court lacks jurisdiction, it must cease proceedings, the Respondents argue that the Nairobi court is not geographically appropriate to hear this case, given the location of the land in Machakos County.
4. Further, the Respondents argue that the Applicant has failed to exhaust all available remedies before rushing to court. That the Applicant has not provided any exceptional circumstances justifying why the case should proceed in court when alternative dispute resolution mechanisms exist within the company's constitution.
5. The Applicant did file written submissions dated 12<sup>th</sup> December 2024 which were in support of application but none in response to the PO Yet on 5<sup>th</sup> February 2025, I had given directions that the first determination to be made was in respect of the PO

### **Analysis and Determination:**

6. A preliminary objection can only be raised on a pure point of law and must not be distorted with factual details that can be subjected to contest in any way or that can only be proved by way of evidence. The Supreme Court of Kenya in the case of *Aviation & Allied Workers Union Kenya v Kenya Airways Ltd & 3 Others*, Application No. 50 of 2014, [2015] eKLR, held that
 

“Thus a preliminary objection may only be raised on a ‘pure question of law’. To discern such a point of law, the Court has to be satisfied that there is no proper contest as to the facts. The facts are deemed agreed, as they are prima facie presented in the pleadings on record.”
7. On the face of the prayers sought in the application, the subject matter of the application is removal of a caveat registered on land described as title No. I.R 28038 measuring approximately 1.784 HA situate in Mavoko, Machakos. Thus, the Applicant by their own pleadings confirms the suit property is not located in Nairobi City county which falls under the territorial jurisdiction of this court (Nairobi ELC).
8. Factors that affect court's jurisdiction were explained in the case of *Republic v Magistrates Court, Mombasa; Absin Synergy Limited (Interested Party)* (Judicial Review E033 of 2021) [2022] KEHC 10 (KLR) that,
 

“Back to the three factors which affect court's jurisdiction discussed above, First, pecuniary literally means ‘related to money.’ Pecuniary jurisdiction sets the pecuniary limits on the jurisdiction of a court. Every court is deemed to have a certain monetary limit of which it can entertain cases and decide. Second, Territorial jurisdiction is the territorial limit in which the law is applicable or the court has power to decide upon. Third, Subject Matter Jurisdiction refers to the nature of the claim or controversy. This means that certain courts are precluded from entertaining suits of particular nature. When the court has no jurisdiction over the subject matter of the suit it cannot decide any question on merits. It can simply decide the question of jurisdiction and if it concludes that it has no jurisdiction over the matter it downs its tools.”
9. With regard to the ground that the Applicant failed to exhaust all available remedies in the Company's constitution before proceeding to court, this is a fact that would need evidence such as the said the



memorandum and articles of association (or Constitution) of the 1<sup>st</sup> Respondent to assess if there is alternative dispute resolution mechanisms provided for.

10. Accordingly, the preliminary objection is upheld on the basis of the first ground of territorial jurisdiction. The application is struck out with costs to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

**RULING DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27<sup>TH</sup> MARCH, 2025**

**A. OMOLLO**

**JUDGE**

