



Ject Limited & another v Chief Land Registrar & another (Judicial Review Application E102 of 2025) [2025] KEHC 5075 (KLR) (Judicial Review) (29 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5075 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW APPLICATION E102 OF 2025
RE ABURILI, J
APRIL 29, 2025**

BETWEEN

JECT LIMITED 1ST APPLICANT

TOM CHORE ODIARA 2ND APPLICANT

AND

CHIEF LAND REGISTRAR 1ST RESPONDENT

ATTORNEY GENERAL 2ND RESPONDENT

RULING

1. The chamber summons dated 24th February 2025 seeks leave of this court to be granted to the exparte applicants to apply for Judicial Review orders of mandamus to compel the Chief Land Registrar to perform a statutory duty to remove the restriction placed on properties known as Nairobi Block 97/376, Nairobi Block 97/378, Nairobi Block 97/379, Nairobi Block 97/380 and Nairobi Block 97/381.
2. The applicant's case as contained in the grounds on the face of the chamber summons, statutory statement and verifying affidavit sworn by Tom Chore Odiara on 24/2/2025 is that Ject Ltd the 1st applicant is the Registered proprietor of the listed parcels of land after successfully purchasing the same at a public auction held on 8/12/2007 and subsequent obtaining of vesting orders dated 27/2/2008.
3. That in June 2012, the 1st Respondent registered a restriction against the said Titles. That on 27/7/2012, vide ELC Case No. 450/2018, in Falcon Properties Ltd vs. Town Chore Odiara & Ject Ltd and the Chief Land Registrar, suit was filed against the two applicants which suit was finally heard and dismissed by Eboso J on 31/7/2018 upon which the applicants extracted orders to have the restriction lodged against the titles removed but that the Respondent Chief Land Registrar has without any



justification declined to perform the legal duty of removing the restrictions despite numerous follow ups, which refusal is prejudicial to the applicants who are unable to perform any transactions using titles to the properties named, hence, this application.

4. I have considered the application as filed and without delving into the merits thereof, the question is whether this court is possessed of jurisdiction to entertain the dispute and the application and to grant the orders sought.
5. I say so, because, jurisdiction is everything, without which, a court of law acts in vain. An order issued without jurisdiction is nothing capable of being enforced.
6. It is for that reason that the court must be cautious on exercising jurisdiction, to avoid acting ultra vires, so as to avoid injustice, delays and its orders being rendered mere statements of intend, not capable of execution.
7. The jurisdiction of the High Court can be found at Article 165 of the [Constitution](#) and in many other statutes. Meaning, jurisdiction is granted/conferred by the [Constitution](#) and legislation. A court of law has no power to confer or arrogate itself of jurisdiction which it is devoid of.
8. Neither can parties to a dispute confer jurisdiction to a court. Furthermore, Jurisdiction is never absolute even if it is said to be unlimited as is the case under Article 165(3) of the [Constitution](#) as far as jurisdiction of the High Court in Civil and Criminal matters is concerned.
9. This court also enjoys supervisory jurisdiction over subordinate courts, tribunals, bodies, authorities and persons exercising judicial and quasi-judicial functions. The Court may therefore be called upon to exercise that supervisory jurisdiction under Article 165(6) & (7) of the [Constitution](#) by calling into this court the proceedings/record of the stated bodies, subordinate courts, authorities or persons, and examine the records or proceedings as to their propriety and or legality and make orders or give directions that it considers appropriate to ensure the fair administration of justice.
10. Judicial Review is one of the Remedies available in the enforcement of the Bill of Rights and more specifically, the Right to [Fair Administrative Action Act](#) guaranteed under Article 47 of the [Constitution](#), as implemented by the [Fair Administrative Action Act](#) 2015 and the Rules made thereunder in 2024.
11. As earlier stated, jurisdiction is not absolute. It is granted and can also be limited by the [Constitution](#) and legislation. In this case, Article 165(5) (b) of the [Constitution](#) expressly bars the High Court from hearing and determining disputes which are exclusively reserved for the Supreme Court and the courts contemplated under Article 162(2) of the [Constitution](#) being, the Environment and Land Court and the Employment and Labour Relations Court.
12. It follows, therefore, that this Court cannot attempt to cross its boundaries into the arena or jurisdiction of those courts and more so, when Article 165(6) of the [Constitution](#) expressly provides that the High Court has no supervisory jurisdiction over superior courts.
13. Therefore, a matter reserved for a superior court belongs to that specific superior court and the High Court cannot usurp that jurisdiction and purport to exercise it.
14. In this case, the [Environment and Land Court Act](#) at Section 13 confers jurisdiction on the Environment and Land Court as established pursuant to Article 162(2) (b) of the [Constitution](#). Other statutes that confer jurisdiction on this Court include the [Land Act](#) and the [Land Registration Act](#).



15. Section 13(5) of the *Environment and Land Court Act* provides for what orders the Court can grant and among those orders are judicial review or prerogative orders. Mandamus is one of those prerogative orders that the Court can issue.
16. Therefore, where an encumbrance is registered on title, the court that has jurisdiction to issue orders for removal of that restriction is the Environment and Land Court.
17. Besides, Section 14 of the *Environment and Land Court Act* too provides for the power of Environment and land Court to enforce its orders or decrees as follows:
 14. Enforcement of Court Orders
A judgement, award, order or decree of the Court shall be enforceable in accordance with the Civil Procedure Act (Cap. 21).
18. For all the above reasons, I find and hold that the matter herein as filed by the applicants cannot be heard and determined by this Court which is without jurisdiction. Without jurisdiction, I must down tools and say no more as was held in owners of Motor Vessel Lilian ‘S’ vs. Caltex Oil (K) Ltd (1989) KLR 1.
19. In the end, the application dated 24/2/2025 is hereby stuck out for want of jurisdiction; with no orders as to costs.
20. It is so ordered.
21. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF APRIL, 2025

R.E. ABURILI

JUDGE

