



**Wire Forest Management Association (WIFOMA) Community Forest Association  
v Conservator of Forests & another (Judicial Review Miscellaneous Application  
E001 of 2023) [2024] KEHC 8144 (KLR) (19 March 2024) (Judgment)**

Neutral citation: [2024] KEHC 8144 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E001 OF 2023**

**KW KIARIE, J  
MARCH 19, 2024**

**BETWEEN**

**WIRE FOREST MANAGEMENT ASSOCIATION (WIFOMA) COMMUNITY  
FOREST ASSOCIATION ..... EXPARTE APPLICANT**

**AND**

**THE ASSISTANT REGISTRAR OF SOCIETIES ..... 1<sup>ST</sup> RESPONDENT**

**CONSERVATOR OF FORESTS ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. Wire Forest Management Association (WIFOMA) Community Forest Association, the ex parte applicant, moved the court by way of a Notice of Motion dated the 14<sup>th</sup> day of February 2023 under Order 53 Rules 3 of the *Civil Procedure Rules* for the following orders:
  - a. An order of certiorari to remove into this court the decision of the Assistant Registrar of Societies and Chief Conservator of Forests contained the letters dated 7<sup>th</sup> December 2022 and 11<sup>th</sup> January 2023 by which it directed the Forest Station Manger – Wire Forest, Regional Forest Conservator – Nyanza Conservancy Kisumu and County Forest Conservator Homabay County to grant access into the WIFOMA offices the alleged office bearers with immediate effect despite the office having its legal bearers as per the letter issued by the office of the Assistant Register of Societies on 14<sup>th</sup> October 2020.
  - b. An order of prohibition barring the Forest Station Manager—Wire Forest, Regional Forest Conservancy—Nyanza Conservancy Kisumu, and County Forest Conservator Homabay County from acting on the decision of the Chief Conservator of Forest contained in the letters dated 11 January 2023 and 7 December 2022.
2. The application was premised on the following grounds:



- a. WIFOMA elections were held sometime in 2019; however, they were occasioned by chaos and called off.
  - b. Further, the two teams, one representing the current office bearers and the other representing the team led by Charles Orero, conducted independent elections that were declared illegal by the stakeholders as they were not in accordance with the *Constitution* and the WIFOMA guidelines.
  - c. As a result of the conflict and in the spirit of the *constitution* and WIFOMA guidelines, the WIFOMA stakeholders, including Deputy County Commissioner Regional Forest Conservator-Nyanza Conservatory, County Forest Conservatory – Homabay, County Commissioner Homabay, Eco-system Commissioner Homabay and Wire Forrest station dated 19<sup>th</sup> March 2019.
  - d. Aggrieved by this decision, the team led by Charles Orero filed ELC Civil Case No. 37 of 2019 in Oyugis, dismissed on a preliminary objection.
  - e. The election was held on 22<sup>nd</sup> May 2019. The current office bearers were elected, comprising Chrispine Ojiambo Osunga, Erick O. Owino, Macharia Oyieyo, Juma O. Milanya, Karen A. Ngere and Lilian A. Aloka. Per the letter dated 14<sup>th</sup> October 2020 issued by the Assistant Registrar of Societies, the said officials were endorsed as the legal office bearers. The Office of the Registrar was duly informed via a letter dated 19<sup>th</sup> August 2020.
  - f. The endorsed officials duly paid for the change of particulars and confirmation and were issued with official receipts upon submitting all the requisite forms and following the due following the dismissal of Civil Case No.37 of 2019, which was later dismissed on appeal, directive was issued to the forester, Wire Station via a letter dated 29<sup>th</sup> July 2019.
  - g. Due to the legal office taking office and noting the contents of the letter dated 19<sup>th</sup> March 2019, the Branch Manager, Co-operative Bank, effected the signatories through a letter dated 26<sup>th</sup> January 2021.
  - h. The office of the Registrar of Societies was well aware of the conflicts and the correct position, as enumerated in the letters dated 20 February 2020 and 10 June 2021.
  - i. The clandestine and suspicious change of officials by the Registrar of Societies without any notification of any elections and relying on an illegal election even after being duly notified is illegal and malicious and acting untraversed.
  - j. That by acting as they did, the assistant registrar of societies and the Chief Conservator of Forest have acted more than their powers and authority and effectively denied the applicants and their officials from serving their term as enshrined under the WIFOMA constitution.
3. The respondents filed grounds of opposition through Lorna Orege, Senior Litigation Counsel, but did not file any submissions. The grounds were as follows:
- a. That the application has no merit, is wrong in law and is an abuse of the Court process.
  - b. The application and the orders sought against the respondent may be premature.
  - c. That the orders sought to be denied as the applicants stand to suffer no prejudice.
  - d. That the application is incompetent, misconceived, misplaced and an abuse of the court process.



4. I have perused the attached documents to the supporting affidavit and the submissions. I am satisfied that the applicants were genuinely aggrieved. I, therefore, grant the orders sought as long as their term in office has not expired.
5. The respondents shall bear the costs.

**DELIVERED AND SIGNED AT HOMA BAY THIS 19<sup>TH</sup> DAY OF MARCH 2024**

**KIARIE WAWERU KIARIE**

**JUDGE**

