



**COUNTY ASSEMBLY OF MOMBASA
THE HANSARD**

Wednesday, 19th November, 2025

Third Assembly – Fourth Session
SEVENTY THIRD SITTING

*[The County Assembly met at 10:42a.m at the County Assembly Buildings]
[The Deputy Speaker (Hon. Fadhili Mwalimu Makarani) in the Chair]*

PRAYERS

The Deputy Speaker (Hon. Makarani): Good morning, Members. Have your seats. Yes, Clerk?

MOTION

RESUMPTION OF INTERRUPTED BUSINESS ON SUBDIVISION OF OWINO UHURU LAND IN MIKINDANI

Yes, Honourable Jactone Madialo?

Hon. Madialo: Thank you Mr. Speaker Sir for the opportunity. Mr. Speaker Sir, I beg to move the following Motion;

WHEREAS Article 185 of the Constitution of Kenya, 2010 vests legislative authority at the County level in the County Assembly;

FURTHER WHEREAS Part 2 of the Fourth Schedule to the Constitution assigns to the County Governments functions relating to land survey and mapping, planning, and local development including land subdivision and tenure regularization;

COGNIZANT THAT Section 5 of the County Governments Act, 2012 mandates County Governments to promote social and economic development, and ensure the provision of services in a sustainable and equitable manner;

ACKNOWLEDGING THAT the Physical and Land Use Planning Act, 2019 empowers County Governments to formulate and implement land use plans, including processing and approving subdivisions within their jurisdictions;

NOTING THAT the County Department of Lands, Urban Planning and Housing wrote to the National Environment Management Authority, (NEMA) indicating its readiness to carry out subdivision of the Owino Uhuru land in Mikindani. However, the process was suspended following an ongoing court case at the Environment and Land Court in Mombasa. In the suit, petitioners alleged that a lead smelting plant that previously operated in the area had caused environmental degradation, health complications, and even deaths. They demanded that NEMA declare the plant non - compliant in restoring the environment;

FURTHER NOTING that in response, NEMA collected soil and water samples from the pollution hotspots and submitted them to the Kenya Plant Health Inspectorate Service (KEPHIS) for analysis. The report released on 8th June, 2025 confirmed that the samples did not show significant lead contamination. Upon review, NEMA determined that the affected environment had undergone natural remediation through natural attenuation, meaning the pollution had diminished over time without external intervention. Therefore, no current environmental hazard exists.

CONCERNED THAT despite these scientific findings and regulatory clearance, the subdivision of the land remains suspended, affecting residents' access to land ownership, security of tenure, and development prospects.

NOW, THEREFORE THIS ASSEMBLY RESOLVES THAT:

- 1. The County Government of Mombasa immediately resumes the planned subdivision of land in Owino Uhuru, Mikindani, now that there is no outstanding environmental hazard, as confirmed by NEMA and the KEPHIS report dated 8th June, 2025.*
- 2. The County Department of Lands, Urban Planning and Housing liaises with NEMA and other relevant state agencies to obtain written clearance where necessary, and ensure that the subdivision process is transparent, participatory, and compliant with applicable planning and environmental laws.*
- 3. The County Executive expedites issuance of ownership documents to legitimate beneficiaries in the area once the subdivision is completed, to support economic development and land tenure security.*
- 4. Lastly the Assembly calls upon all stakeholders to support this initiative as a step toward justice, development, and community empowerment in Owino Uhuru.*

Thank you Sir and I would like to request the Chair of Land Honourable Ahmed Nyundo to second.

The Deputy Speaker (Hon. Makarani): Yes, Honourable Ahmed?

Hon. Ahmed Salim: Thank you, Mr. Speaker I second.

The Deputy Speaker (Hon. Makarani): I second. Honourable Members, I now propose a question that the Motion by Honourable Jacktone Madialo on resumption of subdivision of Owino Uhuru land in Mikindani be debated in this House?

[Question proposed and agreed to]

Yes, Honourable Jactone?

Hon. Madialo: Ahsante sana Mheshimiwa Spika. Miaka ya nyuma kabisa mwaka wa 2014 serikali ya Kaunti ya Mombasa ilianzisha jitihada ya kutaka kupeana ama kugawanya mashamba; shamba la Owino Uhuru kwa wananchi wa Owino Uhuru na hadi wakati ambapo jambo hilo lilikuwa limesimama tayari serikali ama Idara ilikuwa imefika kiwango cha kila kitu kutayarishwa, sasa ilikuwa ni imebaki tu watu kugawanyiwa mashamba halafu vyeti kutolewa. Kama ilivyo kawaida ya idara za serikali kabla hawajafanya jambo huwa wanaandikia idara zengine kuwajulisha kwamba tunataka kufanya jambo hili, maoni yako ni yapi au gani; sasa walivyoandikia NEMA, NEMA wakawaambia ya kwamba kidogo walipelekwa kortini na wana Owino Uhuru kwa sababu kulikuwa na kampuni ambayo ilikuwa inatoa sumu yaani cheche za sumu angani na sumu hizo ziliathiri wananchi wengine waka wagonjwa na hata wengine wakaaga dunia. Korti ikasema ya kwamba walioathiriwa walipwe bilioni moja nukta tatu na hilo ni jambo la kwanza walio athiriwa walipwe bilioni moja nukta tatu.

Jambo la pili Korti ikaamrisha NEMA ya kwamba iende tena ipime na ikipata ya kwamba bado kuna sumu katika anga ama mazingara basi isafishe na ikishasafisha waleta ripoti kortini ya kwamba washafanya hivyo ili wananchi waendeleo kuishi hapo bila kuathirika. Na korti ikaambia NEMA pia kwamba na mkishindwa kwenda kupima na mkipata bado kuna sumu kwa mazingira na musafishe basi aliye washtaki mumpatie milioni 700 ya kwenda kusafisha ili ni kate stori hiyo ni kwamba mwaka huu mwezi wa sita tarehe nane NEMA ilipeleka ripoti kortini baada ya kuchukua *samples* kule na kuenda kupima kule na KEPHIS ambapo ni idara ya serikali inayohusika na mambo kama hayo ikapata ya kwamba hiyo sumu imeisha katika mazingira na imeponywa. Kiswahili kidogo kinanikanganya, yaani *naturally* ama imeponywa *naturally* kwa njia nyengine mvua ikinyesha katika hiyo miaka miaka yote mvua ikinyesha inaondoa zile athari ya sumu ya *lead* na kwa sababu hiyo NEMA yenyewe ikatoa ripoti yake na ikasema kwamba kwa sasa ile sumu iliisha katika Owino Uhuru sasa kwa sababu serikali ya Kaunti na Wizara ya Mashamba iliacha kumalizia ule mpango uliokuwepo kwa sababu ya NEMA kuambia kwamba bado. Tumeambiwa tuangaliae kama kuna sumu na kama ipo tupate kusafisha kwa hivyo vile sasa hivi hakuna sumu basi idara ya Mashamba tunataka kuiomba ya kwamba ikapate kuendelea na hiyo kazi pale ilipoachia na mimi kuja kwangu na hii Mswada hapa ni kwamba, *I consulted the department and the department advised me that I just come, move the Motion, when it passes, then they will have a legal backing to go ahead and complete the subdivision process.* Ahsanteni sana naomba Waheshimiwa ...

[Interrupted]

The Deputy Speaker (Hon. Makarani): Honourable Madialo before you cut the story short as you have said is the matter still in court or it has been resolved in the court?

The Deputy Speaker (Hon. Makarani): No, the matter went to the Supreme Court.

The Deputy Speaker (Hon. Makarani): Okay...

Hon. Madialo: Yes, the matter went to the Supreme court, so the Supreme Court if you allow me, first it was taken to High Court then the High Court awarded and gave this or awarded those who were affected Ksh.3 Billion also asked NEMA to go check if there still LED poisoning do the cleaning if they don't they pay the person who sued them Ksh.700 Million to do the cleaning now when it was taken to High Court the High Court determine in that matter, NEMA felt than slapping government with Ksh.1.3 Billion is too high. They went to appeal and they went to the Court of Appeal, the Court of Appeal threw out that and sided with NEMA the people went to Supreme Court so it was the supreme court that said; Supreme Court went against Court of Appeal decision affirming the High Court Decision so the High Court decision stood at the supreme court now whatever I am talking it is an Administrative matters Supreme Court said now we agree with the High Court, go check if there is still lead in the atmosphere, if there is lead clean it, if you fail to clean it pay the petitioner Ksh.700 Million to clean it and if you clean it or if you find there is no lead come and report back to us so this 8th of June the report was taken back to court for reporting purposes or for administrative there is no other court the supreme court is the highest court...

[Interruption]

The Deputy Speaker (Hon. Makarani): Okay. It is understood.

Hon. Madialo: So, it fully exhausted.

The Deputy Speaker (Hon. Makarani): Thank you.

Hon. Madialo: Thank you Mr. Speaker Sir I request Members to support because the people of Owino Uhuru deserve to have titles and we thank also the County government of Mombasa for the effort that they have done so far. Thank you.

The Deputy Speaker (Hon. Makarani): Thank you. Yes, Honourable Kibwana Swaleh Baya?

Hon. Kibwana Swaleh: Ahsante Mheshimiwa Spika. Mheshimiwa Spika nimesimama hapa kuunga mkono jirani yangu Mheshimiwa Madialo kwa kuweza kuleta hoja hii katika Bunge. Mheshimiwa Spika nimesimama hapa nikiwa mmoja wao ambao ninatetea mambo ya ardhi hata kule kwangu kwa Wadi yangu ama kila Mheshimiwa hapa ana jinamizi la mambo ya ardhi. Mheshimiwa Spika Mheshimiwa Madialo nimemuona mara kwa mara mitandaoni na semi zake kama kiongozi akipigania watu hawa wa Owino Uhuru ambao wamekaa mahali hapo, wamezaliwa hapo na wameishi hapo hawana mahali pengine. Mheshimiwa Spika hoja hii kuja hapa kuipatia nguvu na kuipatia nafasi serikali ya Kaunti kupitia idara ya Ardhi wawe na stakabadhi ya kuonyesha kwamba, vile vigezo ambavyo viko hapo viliondolewa na moja kama ulikuwa umeuliza swali zuri ni jambo ya Korti. Hatuwezi kujadili kitu ambacho kiko kwenye Korti na tumepata hapa ya kwamba Korti haina jambo lolote katika swala hili. Hivyo basi ni kuunga mkono hoja hii na kuisitiza serikali yetu ya Kaunti itilie maanani jambo hili ili angalau kabla ya uchaguzi watu hawa wawe na uhuru, wawe wamepata makaazi. Mheshimiwa Spika ni jambo ambalo tuweze kulipigania na wale wengine ambao wana matatizo ya ardhi pia tuweze kushikana kuona kwamba watu wetu wamepata ardhi. Ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Makarani): Thank you. Yes, Honourable Pamela.

Hon. Arwa: Thank you Mr. Speaker for giving me this opportunity. Before I proceed, I want to thank the almighty God for having given us this golden chance of today Mr. Speaker to be in this Honourable House. Mr. Speaker, I stand to support the Motion; the resumption of sub division of Owino Uhuru land in Mikindani, Mr. Speaker, when you check section five of the County Government Act, 2012 it is well elaborated on the procedure that is supposed be taking place. Mr. Speaker, again, I'm up in four prayers, as you are aware that in coast, we have the land issue it has been a chronic in coast and I want to thank the Honourable Member of Mikindani of bringing this very important Motion to this Honourable House. Mr. Speaker, without taking much time, Mr. Speaker, uh I just stand to support the Motion. Thank you.

The Deputy Speaker (Hon. Makarani): Thank you. Yes, Honourable Manuari?

Hon. Juma Manuari: Ahsante Mheshimiwa Spika. Kwanza nichukue nafasi hii kumshukuru Mwenyezi Mungu kwa siku ya leo. Pili nimpe pongezi ndugu yangu Mchungaji Bwana Madialo Mbunge wa kata ya kule Jomvu kwa hoja yake hii aliyoileta katika Bunge letu na nimuambie mimi pia nimesimama kumuunga mkono kwa sababu ni swala la jamii na swala la jamii ni muhimu ambalo linastahili hapa ndani ya Bunge tulizungumze kushinda swala lile la mtu binafsi. Kwa hivyo Mheshimiwa Spika nimesimama kumpongeza ndugu yangu na kumuunga mkono. Ahsante sana.

The Deputy Speaker (Hon. Mwalimu): Yes, thank you. Yes, Honourable Athman Rama Mwamiri Majority Leader.

The Leader of Majority (Hon. Mwamwiri): Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika, awali ya yote ni mshukuru Mwenyezi Mungu kwa fursa hii. Pili nisimame kuunga mkono hoja hii japo Mheshimiwa Spika kuna maswala lazima tuzingatie katika hoja hii japo kuna maswali kuhusu hoja hii, mdhamini wa hoja hii amenukuu katika kifungu cha tano, ya kwamba kuna mlalamishi aliyekwenda kortini kuhusiana na umiliki wa ardhi katika Owino uhuru. Mheshimiwa Spika katika hoja hii Mheshimiwa hajatufafanulia mlalamishi huyu aliyekwenda kortini ni nani haswa. Kwa sababu Mheshimiwa Spika, ukija katika katiba ibara ya sitini na moja (61) inazungumzia aina za ardhi, kunayo ardhi ya umma, ardhi ya jamii na ardhi ya kibinafsi katika ardhi hii ya Owino uhuru haijabainika ni nani serikali Gatuzi inajukumu la kufanya mipango ya kugawanya ardhi kwa sababu wao ndio wanaosimamia masorovea lakini katika ardhi za watu binafsi pia baado masorovea wa Kaunti huenda kutekeleza jukumu lile kwa hivyo Mheshimiwa Spika, anaporudi mdhamini wa hoja hii atufafanulie bayana haswa hii ardhi mmiliki halali ni nani wa ardhi hii.

Pili, Mheshimiwa Spika vile vile kama alivyosema Mheshimiwa Kibwana ingependeza kama katika hoja hii angeambatanisha ripoti ya mahakama ya kwamba ilikubaliana na ripoti iliyoletwa na NEMA na hii halmashauri ya afya ya mimea na huduma za utafiti Mheshimiwa Spika ya kwamba mahakama ilipokea ripoti hii na ikasadikisha ya kwamba wameridhika na hilo ili tukiendelea na jukumu hilo Mheshimiwa Spika, pasitokee tena kiumbe mwengine kwenda mahakamani ya kusema kwamba kuna haki imekengeukwa. Mheshimiwa Spika nikimalizia kwa kuwa katiba imepeana haki za umiliki na ulinzi wa ardhi ni jukumu letu sisi kama serikali kama Bunge kupitia hoja hii kuweza kusukuma utekelezaji ama ukamilishaji wa jambo hili kwa kuzingatia yale mapungufu na mapengo mdhamini wa hoja hii ayaweke barabara ili kesho Bunge hili lisinukuliwe ya kwamba lilihusika katika ubadirifu wa sheria ya kuishurutisha idara kwenda tekeleza jukumu kwa sababu amenukuu ya kwamba alipewa nasaha na idara ya kiwanda alete hoja ili hoja ile iweze kuwasukuma wao kuweza kutekeleza. Isiwe kwamba nasaha hii

Mheshimiwa Spika, ilikuwa ni mtego ili kesho kukitokea dharura ya mtu kwenda mahakamani, idara iseme wao walishurutishwa na Bunge kutekeleza majukumu yale kwa hivyo ni nasihi tu ya kwamba awe muangalifu na ikiwezekana apate kopi ya nyaraka hizi ili ziwe ushuhuda katika Bunge hili. Naunga mkono Mheshimiwa Spika.

The Deputy Speaker (Hon. Makarani): Thank you Leader of Majority, before I call upon Honourable Madialo to respond, I just like to highlight to the Honourable House and Honourable Mwamwiri the subject matter of this Motion is a resumption of subdivision of Owino Uhuru land in Mikindani. It is as if before the process had started and somehow it was stopped but the Honourable Member is asking the Department of Lands to resume that process with the information that the courts have already finished the process in the courts so it is upon the Honourable Member to produce the document to the department and copies to the Assembly but in the meantime the Motion will proceed, Yes, Honourable Leila the I will call upon Honourable Madialo to respond.

Hon. Nyache: Ahsante Mheshimiwa Spika kwa kunipatia nafasi. Mheshimiwa Spika nimesimama kuunga kono hoja hii ilioletwa na Mheshimiwa mwenza. Mheshimiwa Madialo. swala hili, ni swala nyeti sana, na inatugusa sisi sote viongozi, kwa sababu maswala ya ardhi, ni maswala nyeti, na hata kule kwangu, pia shida ni hiyo hiyo, na mimi pia, nikiunga mwenzangu mkono, na mimi nitahitaji pia, na mimi kwangu kuje kungwe mkono, na mimi watu wangu waize kupata title deed. Kwa hivyo, ni mambo mazuri sana, haya amelea kwa sababu, amechagulia na wananchi wake kumuwakilisha, na wakiona akifanya jambo kama hili, ni jambo la maana sana, watu, wananchi kupata hati miliki, hati miliki, ni amana nzuri sana, na amana ambayo itaweza kumsaidia wananchi kwa njia ile ama yeyote, kwa hivo, mimi nampongeza sana, nampongeza sana Mheshimiwa Madialo kwa kuweza kuja na hoja hii, kwamba watu wake wa Owino Ohuru waweze kupata hatimiliki kwa ile shida wamepata katika ile ardi, na sasa imefikia tamati inaonekana, wamefaulu, na sisi tunawaomba Mungu waweze kupata hizo title deed na hata kwangu pia naomba pia vilevile na mimi pia niweze kufikiriwa kupata hizo title deed. Ahsante sana Mheshimiwa Spika nasimama kuunga mkono.

The Deputy Speaker (Hon. Makarani): Yes, Honourable Mbaya.

Hon. Hamisi Mbaya: Ahsante sana Mheshimiwa Spika kwa kuweza kunipatia fursa hii. Kutokana na hoja ambayo imeletwa na Mheshimiwa mwenza ambaye ni mchungaji Mheshimiwa Spika nikiwa mtu mzima ndani ya Nyumba hii, sina budi kusimama niweze kuiunga mkono hoja hii Mheshimiwa Spika. Kwa hiyo Mheshimiwa Spika nimesimama kuunga mkono hoja hii kwa asilimia 95. Ahsante sana Mheshimiwa Spika.

The Deputy Speaker (Hon. Makarani): Thank you. Yes, Honourable Madialo, please respond.

Hon. Madialo: Thank you, Mr. Speaker Sir. I would like to take this opportunity to thank all the Members who have voiced their support towards this Motion, I do not take it for granted and I thank you profusely. Secondly, I would like to respond to concerns of Honourable Mwamwiri and he is very right because as an Assembly we must always be very careful not to be taken for a ride especially in matters of legislation. Now, he asked the question and I would like him to be a bit attentive; number one, he asked whether the land was government land or private land. The land is government land, it's GL number two, he also asked who was the petitioner.

The petitioner is an NGO; she was not petitioning court against the County government or the land department it had nothing to do with land. It had everything to do with lead poisoning. There was a factory in Owino Ohuru area that was smelting battery, so it was emitting poison to the atmosphere and in the petition the court was convinced even with medical evidence, that people got sick as a result of the lead poison and then number two, there were deaths that were confirmed that were occasioned by the poisoning in the atmosphere so, the petitioner, it did not have anything to do with land. Now, it was NEMA that was taken to court by the petitioner for approving a battery smelting factory in a residential area causing poison to the people so, when the county government was continuing with the process of land sub division as I earlier said they had to write to different departments like NEMA on environmental impact, things like that so it was at that point that NEMA told them regarding Owino Ohuru there's a bit of a problem. We have been taken to court now, court process began from the High Court to the Supreme Court, NEMA were told to go and test again and if they find that there is a led poison, they were not to remove people from Owino Ohuru, but they were to clean Owino Ohuru so that the people in Owino Uhuru live in an environment that is clean. Now, when they went and picked the samples this year and it was tested, now number two questions, and are there documents? Yes, and I think our clerk assistant, Gibson, is the one who helped me prepare this. When I told him to prepare this, I also submitted all the documents and he has them. I think it will be attached. The KEPHIS report, the NEMA overall report presented to the court and also court issued a certificate So, it is there and I think our brother has it. It will be photocopied and attached. Thank you. Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Makarani): So, you mean the documents are with the Office of the Clerk of the County Assembly?

Hon. Madialo: Not officially, because if the Office of the Clerk Assembly means Gibson's office, then yes. Thank you.

The Deputy Speaker (Hon. Makarani): Okay. Thank you, Honourable Madialo. But I will let the Honourable House know that the documents are in the office of the Clerk of the County Assembly of Mombasa. Thank you, Honourable Members, I now stand to put a question that the Motion on resumption of submission of Owino Uhuru land in Mikindani Ward by Honourable Jactone Madialo be adopted in this Honourable House.

[Question put and agreed to]

Honourable Members, the Motion by Honourable Jactone Madialo on resumption of subdivision of Owino Uhuru land in Mikindani Ward is adopted by this Honourable House. Yes, Clerk?

ADJOURNMENT

Honourable Members, this House stands adjourned until Wednesday, 19th November 2025 at 2:30p.m.

House rose at 11:16a.m.