



REPUBLIC OF KENYA

IN THE ENERGY AND PETROLEUM REGULATORY AUTHORITY

DISPUTE NO: EPRA/PEACP/CP/4/64003719/25

ISAAC MUSIOMI MURULA..... PLAINTIFF

VERSUS

KENYA POWER AND LIGHTING COMPANY PLC.....RESPONDENT

DETERMINATION

A. BACKGROUND

1. The dispute between Isaac Musiomi Murula (Plaintiff) and the Kenya Power and Lighting Company (Respondent) was first reported to the Energy and Petroleum Regulatory Authority, (hereinafter referred to as “the Authority”) vide a letter dated 9th September 2025.
2. The dispute is on alleged illegal crossing of power cables over the Plaintiff’s Property known as L.R. No. [REDACTED] situated in North East of Mavoko Municipality, Machakos County.

B. PLAINTIFF’S CASE

3. The Plaintiff states that he is the lawful owner of Plot Number L.R. No. [REDACTED] situated in North East of Mavoko Municipality, Machakos County.

4. The Plaintiff further states that on or about February, 2023 the Respondent erected poles next to his property and installed power cables which crossed over the property without the his consent thereby rendering a section of the property useless.
5. The Plaintiff adds that he engaged the Respondent with a view to moving the power cables from his property or payment of adequate compensation by the Respondent.
6. The Plaintiff avers that correspondences to the Respondent did not elicit any response until 22nd May, 2025 when the Respondent denied trespassing on his land stating that the power lines were on a road reserve despite his evidence showing the contrary.
7. The Plaintiff submits that the Respondent is liable to either moving the power cables from his property or adequately compensating him, for the reason that the Respondent failed to seek consent/authority from him before erecting poles next to his property.

C. RESPONDENT'S CASE

8. The Respondent filed written submissions dated 1st October 2025 in response to the Plaintiff's complaint.
9. The Respondent avers that during the site visit conducted on 25th September 2025, the Respondent's team in the presence of the Plaintiff made the following findings:
 - a. That the electricity line is strictly within the designated road reserve as per the survey map.
 - b. That there was no evidence of encroachment upon LR No. [REDACTED] by the Respondent.
 - c. That the Plaintiff's perimeter wall appeared to extend into the road reserve, enclosing part of the Respondent's infrastructure.
10. The Respondent further argues that the Authority's team on site directed tthe Plaintiff to obtain a fresh survey report from a licensed surveyor if he wishes to pursue the matter further but to date, no such report has been provided.

D. DISPUTE RESOLUTION PROCESS

11. Upon receiving the Plaintiff's Complaint vide a letter dated 9th September 2025, the Authority proceeded to request for submissions from both parties vide a letter dated 16th September 2025.
12. The Authority received submissions from the Plaintiff dated 18th September 2025 and the Respondents submissions dated 1st October 2025.
13. A site visit was coordinated by the Authority that involved the Plaintiff and his legal representative as well as the Respondent on 25th September 2025.
14. The Authority invited both parties for a hearing on 4th November 2025 vide an email sent on 31st October 2025.

E. ISSUES FOR DETERMINATION

15. Based on the fact and evidence shared by the Parties, the Authority finds that the following issue arises for determination;
 - a) Whether the Authority has jurisdiction to hear and determine this dispute.

F. ANALYSIS OF THE DISPUTE

- a) Whether the Authority has jurisdiction to hear and determine this dispute.
16. The Plaintiff claims that the Respondent erected power cables next to his property L.R No. [REDACTED] in February, 2023 without his consent which rendered a section of his land useless.
17. On the other hand, the Respondent denies allegations of trespass by the Plaintiff and relies on the findings of the joint site visit conducted on the 25th September, 2025 which confirmed that the subject electricity distribution line is entirely within a designated road reserve and not within the Plaintiff's parcel of Land.
18. The Respondent avers that the above position was communicated earlier to the Plaintiff on the 22nd May, 2025 where he was informed that the line in question runs within a lawful road reserve and that the Plaintiff's perimeter wall had instead extended into the road reserve.

19. The Authority has evaluated the facts and supporting documents shared by the parties and believes that the evidence on record shows a 'geometry dispute' rather than a 'wayleave/trespass dispute'.
20. The Plaintiff argues that the Respondent's 11 kV line traverses Land Reference No. [REDACTED] and has rendered a 68.41 m² strip unusable, relying on a 1:500 site map and a letter dated 26th March, 2024 from the Sub- County Surveyor, Mavoko Sub-County.
21. The Respondent denies any encroachment, and states the line lies wholly within the public road reserve and further alleges that the Plaintiff's perimeter wall sits off-beacon inside the reserve.
22. The Survey Report dated 29th January 2025 relied on by the Respondent, indicates that the wall does not follow the subject property's beacons and the cadastral map places the power line correctly within the reserve.
23. It is worth noting that during the joint site visit, the Authority directed the Plaintiff to engage a licensed survey afresh before the matter could be pursued, underscoring that the unresolved question is the true parcel boundary and extent of the road reserve.
24. The key issue in this case is that the exact boundary between the property and the road reserve is still disputed and not yet proven.
25. The Authority is established under Section 9 of the Energy Act, Cap 314 with various functions and powers enumerated under Section 10 and 11 of the said Act.
26. Further, Section 11 (i) of the Energy Act, Cap 314 gives powers to the Authority to investigate and determine complaints or disputes between parties over any matter relating to licenses and license conditions under the Act.
27. Additionally, the Authority is largely guided by the Energy (Complaints & Disputes Resolution) Regulations, 2012 which outlines the procedures for handling complaints and disputes in the Energy & Petroleum Sectors.
28. **Regulation 4** of the Energy (Complaints & Disputes Resolution) Regulations, 2012 defines the Authority's jurisdiction to handle complaints and disputes which include issues related to billing, disconnection, metering, new connection, quality of power supply, tariffs and wayleaves among others.

29. In the case of *Machakos ELC No. 70 of 2023- Teresia Wayua Nzau -vs- Loice Jepchumba Kemei & Others* Hon. Justice A. Nyukuri delivered a ruling dated 12th February, 2025 where he proceeded to strike out the suit for want of Jurisdiction. The Honourable Judge states as follows at Paragraph 13 of its ruling;
- “Therefore, where there is a **boundary dispute** regarding uncertain boundaries, just like in this case, such disputes ought to be heard and determined not by this court, but by the Land Registrar who takes evidence from the parties and makes a decision”.*
30. Similarly, Regulation 40 of the Land Registration (General) Regulations, 2017 provides a comprehensive procedure for boundary disputes.
31. In light of the above, since boundary adjudication is outside the Authority mandate, the technical conclusion is that the complaint should be dismissed for want of jurisdiction on the boundary issue, without prejudice to the Plaintiff pursuing boundary re-establishment in the competent forum. Once the boundary is settled, any residual wayleave/trespass claim can properly be re-presented before the Authority for determination.
32. Consequently, the Authority finds that it lacks jurisdiction to hear and determine this dispute and hereby dismisses the Plaintiff’s complaint dated 9th September, 2025.

G. FINAL DETERMINATION

33. The Authority has considered the Plaintiff’s and the Respondent’s case and hereby makes the following determination;
- a) That the Authority lacks jurisdiction to hear and determine this dispute as the subject matter relates to a boundary dispute.
 - b) That the Plaintiff’s complaint dated 9th September, 2025 is hereby dismissed for want of Jurisdiction.
 - c) That each party is hereby directed to bear their own costs.
 - d) That this determination is final and binding upon both parties.

- e) That the parties are at liberty to exercise their right of appeal to this decision at the Energy and Petroleum Tribunal pursuant to the provisions of the Energy Act, Cap 314, Laws of Kenya.

DATED AT NAIROBI THIS^{7th} DAY OF NOVEMBER.....2025

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CPA CYPRIAN M. NYAKUNDI
FOR: DIRECTOR GENERAL