



**COUNTY ASSEMBLY OF MOMBASA
THE HANSARD**

Tuesday, 31st October, 2023
Third Assembly – Eighty Third Sitting

*[The County Assembly met at 2:40p.m. at the County Assembly Buildings]
[The Temporary Speaker (Honourable Hamisi Nyota) in the Chair]*

PRAYERS

The Temporary Speaker (Hon. Hamisi Nyota): Members let us get seated. Yes Clerk?

MOTION

ISSUANCE OF TITLE DEEDS TO LEARNING INSTITUTIONS AND HEALTHCARE FACILITIES IN
MOMBASA COUNTY

Yes, Honourable Benard Ogutu, MCA Changamwe Ward please move the Motion.

Hon. Ogutu: Thank you Mr. Speaker Sir for giving me this opportunity. Mr. Speaker Sir, I beg to move the following Motion;

AWARE THAT, Mombasa County is a home to numerous learning institutions and healthcare facilities that play a pivotal role in the development and well-being of our community;

FURTHER AWARE THAT a significant number of these institutions despite their substantial contribution to our society do not possess valid title deeds for their properties;

COGNIZANT THAT, the absence of title deeds has resulted in encroachments on their land, leading to security concerns and hampering their ability to operate efficiently;

NOTING THAT, the Task Force on Healthcare Systems established by the Governor has highlighted these issues in its report, emphasizing the urgent need for action to protect and secure essential healthcare facilities.

Therefore, I urge this Assembly to RESOLVE that;

The County government through the departments of Lands, Housing and Urban Planning in collaboration with the National Land Commission to ensure that learning institutions and healthcare facilities within the County are issued with title deeds.

Thank you, Mr. Speaker. I ask Honourable Frankline to second?

The Temporary Speaker (Hon. Hamisi Nyota): Yes, Honourable Frankline Makanga?

The Temporary Speaker (Hamisi Nyota): Yes, Honourable Frankline Makanga?

Hon. Makanga: I second Mr. Speaker.

The Temporary Speaker (Hamisi Nyota): Okay. I now stand to propose the question that the motion by Honourable Ogutu, on Insurance of Title Deeds to Learning Institutions and Health Care Facilities in Mombasa County be considered by this Honourable House in the same terms as moved?

[Question proposed and agreed to]

Yes, Honourable Bernard Ogutu MCA Changamwe Ward? Please make your contribution to the Motion.

Hon. Ogutu: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika hoja hii ni muhimu sana kwetu kama wawakilishi wa Wadi tofauti tofauti; kwangu Changamwe niko na shule tatu ambazo tuko na kesi kortini kuhusiana na mambo ya hati miliki. Shule ya Msingi ya Changamwe, Gome na Magongo mpaka sasa Mheshimiwa Spika hawana hati miliki na kuna mabwenyenye ambao wameweza kunyakua sehemu kubwa tu ya hizo shule. Pia kwa jirani yangu Mheshimiwa Frankline Makanga kuna Shule ya Msingi ya Chaani ambayo sehemu kubwa imeenda na mabwenyenye. Hizi ni baadhi ya zile shule ambazo zimeweza kunyakuliwa. Tukirudi katika hospitali zetu; Coast General mpaka sasa kuna watu ambao wanasema kwamba ile ardhi ni yao Mheshimiwa Spika, lau tungekuwako na hati miliki shida kama hizi zingekuwa hazipatikani. Kliniki ya Kongowea Mheshimiwa Spika hakuna nafasi tena ya kufanya upanuzi manake ardhi yao imechukuliwa karibu asilimia 30 na hata kuingia kwa hospitali hio ni ngumu sana, pia vile vile Maweni na Mtongwe. Mheshimiwa Spika tukiendelea namna hii huko mbeleni tutakosa nafasi ya kupanua hizi hospitali zetu ndio maana nikaona ni muhimu Wizara ya ardhi waangalie kwa haraka sana, waweze kupeana hizi hati miliki ili hizi shule zetu na Kliniki zetu ziwe ziko safe Mheshimiwa Spika. Ahsante sana Mheshimiwa Spika na naomba Wenzangu waunge hio hoja mkono ili tuweze kuzuia unyakuzi wa hizi facility zetu. Ahsante Mheshimiwa Spika.

The Temporary Speaker (Hamisi Nyota): Thank you Honourable Bernard Ogutu. Yes, Honourable Ibrahim Bomoa? Please make your contribution.

Hon. Omondi: Thank you Mr. Speaker. Mr. Speaker, as I strongly stand to support the Motion that has been brought to this House by my brother Bernard Ogutu, the Member of County Assembly representing Changamwe Ward. I would strongly urge the collaboration of the County government of Mombasa, the Department of Lands, Housing and Urban Planning with the National Land Commission.

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This is because there is no way Mr. Speaker one side can work alone they have to collaborate with national government and the County government, so I urge for that strong collaboration. This collaboration, Mr. Speaker will ensure the learning institutions and health facilities within our County are granted crucial stability and the security of the teams or title deeds. Mr. Speaker, schools and healthcare centers; these ones are the backbone of our community because they provide education and even nourishes talent and also, they safeguard the healthcare of our people by empowering them with a safe of ownership or self ownership we also pave way to long term sustainability and development. Mr. Speaker, this Motion is not just about legal document but this Motion also is about fostering an environment where education and healthcare can flourish and independent. It is about providing a solid foundation for our children to learn and also contribute meaningful to the society. Mr. Speaker, this ensures that our healthcare facility can operate efficiently in delivering good services to those concern, i strongly urge each Member of this Honourable House to run behind this particular Motion by recognizing the positive impact that will come with it. Mr. Speaker, I stand to support this Motion. Thank you.

The Temporary Speaker (Hon. Nyota): Thank you Honourable Ibrahim Omondi for your contribution. Yes, Honourable Sylvester Kai, MCA Junda Ward?

Hon. Kai: Thank you for giving me opportunity. I do full support this Motion because it is for the public interest having in mind that all what have been mentioned with these public facilities; with it schools or health facilities for me it is something to be taken with a very good concern because I can imagine if it will be difficult for the government to facilitate the title deeds of public institution, how will it be for the individuals who still depend on the same government to facilitate them with title deeds? Therefore, I urge the Honourable Members to fully support this essential move. Thank you.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you Honourable Sylvester Kai for your contribution. Yes, Honourable Frankline Makanga, MCA Chaani Ward?

Hon. Makanga: Thank you Mr. Speaker. I stand to support the Motion moved by Honourable Bernard Ogutu, Member of County Assembly Changamwe and an advocate on land issues in Changamwe. Mr. Speaker, for record purposes and as stated by the mover of the Motion they need to have our institutions to have title deeds has not only basis in law according to the Constitution in Article No.60 (1) of our Constitution it says, *‘that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with the following principles: equitable access to land, security of land rights, sustainable and productive management, transparent and cost effective administration and all those other issues.* Mr. Speaker, that had been highlighted; Article 61 (1) states that, there is the land classifications according to the Constitution which classifies land as public, community or private. Mr. Speaker now on public land it says, this land is owned by the State and the Land Commission which has been mentioned in this Motion by the informed and learned Member who is an advocate on land issues. Mr. Speaker, with a history that while he was fighting for the rights of a school trying to do away with the private developer who was grabbing public land meant for Changamwe Primary which is within Changamwe Constituency and in Changamwe Ward to be precise, the Honourable Member whom we referred him as a hero on land issues was arrested and arraigned in court and therefore as he moves this Motion, he moves it because he believes the Constitution should be followed to the letter.

Mr. Speaker as he has stated, in my own Ward also one of my primary schools which is Chaani Primary School has lost a piece of its land to a private developer and one of the issues that gives this people to grab or an opportunity to grab the land is because the government has not been keen to issue title deeds to the institutions. Further Mr. Speaker, as Honourable has stated right now we cannot do any development in any health institution in Mombasa because of lack of title deeds; even when you go to a well wisher or a philanthropist who is ready to support development in those institutions, they will always ask for title deeds. Mr. Speaker, so there is nothing that can happen without a title deed and therefore I urge this House, that by the fact that this Motion has been moved by Honourable Ogutu we as a House we proceed to support and have it adopted and thereafter the Committee on Implementation Chaired by our able Chairman Honourable Samuel Mwaura of Kongowea to proceed further and ensure that this is effected and implemented within the shortest period of time. Thank you so much Mr. Speaker and I stand to support.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you so much Honourable Frankline Makanga for your contribution. Yes, Honourable Athman Mwamwiri, the Leader of Majority?

The Leader of Majority (Hon. Athman Mwamwiri): Thank you Mr. Speaker. Mr. Speaker I am up on a point of order for the purposes and efficiency of this House to be noted Standing Order No. 85.

The Temporary Speaker (Hon. Hamisi Nyota): Yes, proceed.

The Leader of Majority (Hon. Athman Mwamwiri): It *States Matters Sub Judice or Secret*. 85.(1) *Subject to paragraph 5, no Member shall refer to any particular matter which is a sub judice or which, by the operation of any written law, is secret.* (2) *A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matters is likely to prejudice its fair determination.* Mr. Speaker, there is a Member who has been referred, we all understand he is our hero yes but the matter which entails is a matter which is under proceedings that the locals with this Standing Order we are not supposed to mention it or discuss it before the House. So, for purposes of reference and guidance Mr. Speaker it is worth if such a matter cannot be heard in this House until it is determined. Thank you Shair.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you Honourable Athman Mwamwiri, Leader of Majority. Yes, Honourable Ibrahim Omondi you are up on a point of Standing Order...?

Hon. Omondi: Yes Mr. Speaker I stand on order of information. Mr. Speaker I would like the Member and if not the Member, the whole House that this House has the jurisdiction of the same as a high court and therefore I do not see the reason why we cannot be able to deliberate on such matters that are taking place. Thank you.

The Temporary Speaker (Hon. Hamisi Nyota): Honourable Ibrahim Bomoa this House is headed by our Standing Orders; if our Standing Orders have respect very clearly that this should be followed and that should not be followed then as a House of record this is a House of reference, this is a House of just so we cannot go against our own Standing Order.

So, when a Member stands up on a Standing Order which is there in our Standing Order of this House then we cannot say we are going against our own Standing Orders. Please be guided Honourable Ibrahim Omondi. Yes, Honourable Frankline Makanga, are you up on a point of order?

Hon. Makanga: Mr. Speaker it is a point of information; that I acknowledge the information from the Leader of Majority however for clarity and record purposes we have not discussed that issue on the floor! What I did was a simple information that such a thing happened and therefore it has not been discussed, we have not even mentioned the case number, we have not mentioned the parties and therefore whoever has just walked in cannot even tell who the hero is and who the parties are for Mr. Speaker we are as clean as we are. Thank you, Mr. Speaker.

The Temporary Speaker (Hon. Khamisi Nyota): Thank you Honourable Frankline Makanga. Honourable Athman Mwamwiri, I stand to think Honourable Frankline Makanga he just made a reference but no discussion on the case, he just applauded Honourable Benard Ogutu being a champion and he just mentioned a past history. So, it is not for the discussion for this House, I think he is okay. Yes, Honourable Athman Mwamwiri do you want to add something Leader of Majority?

The Leader of Majority (Hon. Athman Mwamwiri): Thank you Chair and I appreciate the Honourable Member for acknowledging and to my understanding I was just giving a precaution Mr. Speaker because since he has already mentioned it could open up and maybe a discussion can start out of it, so it was just a precaution.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you Honourable Athman Mwamwiri, the House stands guided as a precaution. Yes, Honourable Hamisi Mbaya MCA Timbwani Ward please make your contribution.

Hon. Hamisi Mbaya: Ahsante sana Mheshimiwa Spika kwa kunipatia fursa hii kuweza kuchangia katika hoja ambayo imetolewa na Mheshimiwa mwenza. Mheshimiwa Spika, sitakua mwingi wa maneno bali nimesimama kuunga mkono hoja hii kwa asilimia 85. Ahsante sana.

The Temporary Speaker (Hon. Khamisi Nyota): Thank you Honourable Hamisi Mbaya. Yes, Honourable Samuel Mwaura MCA Kongowea Ward.

Hon. Mwaura: Thank you Mr. Speaker Sir for giving me this opportunity to contribute to this very important Motion. I stand to support the Motion and thank the Honourable Member for bringing such a good Motion to this House. Mr. Speaker...

[Interruption]

Mr. Speaker, protect me from Honourable Majority leader?

The Temporary Speaker (Hon. Hamisi Nyota): Honourable Members, let Honourable Mwaura be heard in silence please.

Hon. Mwaura: Mr. Speaker, this County is at a risk of losing all its public utility land, we are at a risk of losing all the schools to the greedy grabbers of this County.

Mr. Speaker, we are at risk of losing all the hospital and all the clinic lands, that is why we as a House must all stand to support this Motion and as well ensure that this Motion is fully implemented. Mr. Speaker, as I stand to support the Motion you have already heard that Kongowea Clinic is one of those has been grabbed, totally grabbed. Someone is already claiming that the Hospital is in his own land. Mr. Speaker, Kengeleni primary School in Kongowea and I know this is across the whole County, every other public utility, every other School, every other clinic has been grabbed and so I stand to support this Motion and also to commit to the House that this is one Motion that we will all and especially I being the Chair of the Implementation Committee we have to stand and ensure that we are following up on this matter to ensure that all public utility land in the County has been given their title deed. Thank you, Honourable Speaker.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you Honourable Samuel Mwaura. Yes, Honourable Benard Ogutu, please reply to the Motion.

Hon. Ogutu: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika, nichukue nafasi hii kupongeza Waheshimiwa wenzangu kwa kuweza kuchangia kwa hoja hii na pia niweze kumshukuru Mwenyekiti wa Kamati ya Utekelezi kwa kuchukua jukumu kwamba hoja hii itaweza kufuatiliziwa baada ya kupita hapa. Pia niseme kwamba ni jukumu letu kama wawakilishi Wadi tofauti tofauti kuhakikisha kwamba ardhi hizi zimeweza kulindwa. Ahsante sana Mheshimiwa Spika.

The Temporary Speaker (Hon. Hamisi Nyota): Thank you Honourable Benard Ogutu. I now stand to put a question that the Motion by Honourable Benard Ogutu on issuance of title deeds to learning institutions and Health facilities in Mombasa County be adopted in this Honourable House in the same terms as moved.

[Question put and agreed to]

The Motion by Honourable Benard Ogutu on Issuance of title deeds to learning institutions and health facilities in Mombasa County is now adopted by this House. Yes Clerk?

ADJOURNMENT

The House rose at 3:09p.m.