



REPUBLIC OF KENYA



KENYA LAW
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**Kageenu & another v Muchiri & another (Environment & Land Case
49 of 2019) [2023] KEELC 17099 (KLR) (24 April 2023) (Ruling)**

Neutral citation: [2023] KEELC 17099 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 49 OF 2019
MN GICHERU, J
APRIL 24, 2023**

BETWEEN

LILIAN REGERIA KAGEENU 1ST APPLICANT

CAROLINE NKATHA 2ND APPLICANT

AND

KELVIN MUGWERU MUCHIRI 1ST RESPONDENT

DAN MUNDIA MUCHIRI 2ND RESPONDENT

RULING

1. This ruling is on the Notice of Motion dated 18/2/2022. The motion which is under Order 40, Rule 10 and Order 51, Rules 1-3 of the [Civil Procedure Rules](#) and Sections 1A, 1B and 3A of the [Civil Procedure Act](#) seeks two prayers/orders.

1. That the Plaintiffs be restrained whether by themselves, their servants or agents from entering the portion, from ploughing, planting crops or cultivating any portion of the suit land other than one eighth of an acre occupied by them at the time of the institution of this suit pending the hearing and determination of this suit.

2. That costs of this application be provided for.

2. The motion is supported by an affidavit sworn by Lillian Regeria Kageenu dated 18/2/2022 and nine (9) grounds. There is also an affidavit by Jack Obonyo also dated 18/2/2022 and three annexures.

In summary, the Defendants are saying that the Plaintiff who occupies only one eighth of an acre of the suit land has now ploughed the land with a tractor ready to plant thereon. This happened on 31/1/2022. A report was made to the police at Oloosirkon Police station vide OB No. 11 of 31/11/2022.



3. The motion is unopposed because the respondent who was to file a replying affidavit within 14 days from 23/5/2022 did not file any such affidavit even after the deadline.
4. The application dated 18/2/2022 being fair, just and unopposed and also having met the threshold for the granting of an injunction is allowed in terms of prayer (4). Costs in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 24TH DAY OF APRIL, 2023.

M.N. GICHERU

JUDGE

