



**Ileri v Ileri (Environment and Land Appeal 5 of 2023)
[2025] KEELC 3095 (KLR) (20 March 2025) (Judgment)**

Neutral citation: [2025] KEELC 3095 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT EMBU
ENVIRONMENT AND LAND APPEAL 5 OF 2023**

AK BOR, J

MARCH 20, 2025

BETWEEN

MARY RITA MURANGI IRERI APPELLANT

AND

CRISPIN MIRORI IRERI RESPONDENT

JUDGMENT

1. The Appellant instituted Embu MC ELC Case No. 17 of 2021 alongside Lucy Njoki Ileri and Isabella Rwamba Ileri, seeking cancellation of the registration of Ngandori/Kirigi/1761 (the suit property) in the Respondent's name and for the land to revert to Njeru Ileri (deceased). They also sought cancellation of the subdivision and registration of Ngandori/Kirigi/12799, 12800 & 12801 in the Respondent's name. Lucy Njoki Ileri and Isabela Rwamba Ileri who were plaintiffs in the suit before the trial court are not parties in this appeal.
2. The plaintiffs' claim in Embu MC ELC Case No. 17 of 2021 was that on 10/3/1961, the late Njeru Ileri was registered as proprietor of the suit land to hold it in trust for himself and the entire family of Ileri Ngai (deceased) including the Respondent. The plaintiffs averred that they were sisters and the Respondent was their brother, and that the late Ileri Ngai was their father.
3. The Respondent raised a preliminary objection to the suit on grounds that it was statute-barred and that the plaintiffs lacked proper letters of administration to move the court. In its ruling delivered on 18/1/2023, the trial court struck out the suit and found that the plaintiffs had not exhibited any letters of administration obtained before filing the suit.
4. The issue for determination in this appeal is whether the court should allow the appeal and set aside the ruling of the trial court delivered on 18/1/2022. The court directed parties to file written submissions on the appeal which it has read and considered.



5. The plaintiffs' contention before the trial court was that the suit property was registered in the name of Njeri Ileri on 10/3/1961 to hold in trust for himself and his siblings as the children of Ileri Ngai. That the Respondent fraudulently corrected his name and misrepresented himself as the late Njeru Ileri and caused the suit land to be registered in his name on 27/8/1982 purporting to be the late Njeru Ileri. The plaintiffs claimed that the Respondent had subdivided the suit land into three portions and intended to transfer two of the portions to his brother to the exclusion of the plaintiffs who were his sisters.
6. The Learned Magistrate started the ruling by giving the background of the dispute as stated in the plaint by mentioning the relationship of the parties as brother and sisters with Ileri Ngai as their common father. However, at paragraph 14 of the ruling, the Learned Magistrate noted thus:

“It is also clear that the late Njeru Ileri who is the brother to Ileri Ngai was the registered owner of the suit land in trust of the plaintiffs' father”.
7. The trial court fell into error because the plaintiffs' claim was that the late Njeru Ileri was the son of Ileri Ngai and not his brother. The court found that the plaintiffs had not exhibited any letters of administration before filing the suit. The court notes that in the record of appeal, the Appellant included a Limited grant ad litem for the Estate of Njeru Ileri for purposes of filing suit issued to her on 19/7/2016. The plaint was filed on 17/3/2021.
8. The Appellant therefore had locus to bring the suit for the suit property which she claims was registered in the name of the late Njeru Ileri to hold in trust for his brothers and sisters.
9. The court allows the appeal. The orders made vide the ruling delivered on 18/1/2022 are set aside. The Appellant is awarded the costs of the appeal.

DELIVERED VIRTUALLY AT EMBU THIS 20TH DAY OF MARCH 2025.

K. BOR

JUDGE

In the presence of: -

Ms. Mary Murangi Ileri- Appellant appearing in person

Mr. Dennis Kariuki for the Respondent

