



**Kahiga (Suing in her capacity as a personal representative of the Estate of Meri Njatha Alias Alexander Kagiri Meri) v Kimani & 16 others (Environment & Land Case 38 of 2019) [2025] KEELC 1296 (KLR) (18 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1296 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MURANGA**  
**ENVIRONMENT & LAND CASE 38 OF 2019**  
**MN GICHERU, J**  
**MARCH 18, 2025**

**BETWEEN**

**ANASTACIA WAITHIRA KAHIGA (SUING IN HER CAPACITY AS A PERSONAL REPRESENTATIVE OF THE ESTATE OF MERI NJATHA ALIAS ALEXANDER KAGIRI MERI) ..... PLAINTIFF**

**AND**

**PETER GATONGA KIMANI ..... 1<sup>ST</sup> DEFENDANT**  
**NELSON KIMEMIA NJENGA ..... 2<sup>ND</sup> DEFENDANT**  
**EVANS IRUNGU MUTUNGI ..... 3<sup>RD</sup> DEFENDANT**  
**DAVID NGARI MWANGI (SUED AS TRUSTEES OF PHILADELPHIA INVESTMENT GROUP) ..... 4<sup>TH</sup> DEFENDANT**  
**GERALD NDIRANGU IRUNGU ..... 5<sup>TH</sup> DEFENDANT**  
**MWAURA ERASTUS MUIRURI ..... 6<sup>TH</sup> DEFENDANT**  
**MERCY WANGUI KAMUNGE ..... 7<sup>TH</sup> DEFENDANT**  
**JANE WAIRIMU MUTEGO ..... 8<sup>TH</sup> DEFENDANT**  
**CHRISTOPHER KAMANDE NDUNGU ..... 9<sup>TH</sup> DEFENDANT**  
**MOHAMMED OMAR MABROUK ..... 10<sup>TH</sup> DEFENDANT**  
**UPENDO MULYES COMPANY LTD ..... 11<sup>TH</sup> DEFENDANT**  
**WILSON NDUNGU MWAURA ..... 12<sup>TH</sup> DEFENDANT**  
**CAROLINE MUTHONI NJUGIA ..... 13<sup>TH</sup> DEFENDANT**  
**SAMUEL MUYA WABOI ..... 14<sup>TH</sup> DEFENDANT**



MARTIN CHEGE MURIITHI ..... 15<sup>TH</sup> DEFENDANT  
THE LAND REGISTRAR MURANG'A ..... 16<sup>TH</sup> DEFENDANT  
THE HONOURABLE ATTORNEY GENERAL ..... 17<sup>TH</sup> DEFENDANT

## RULING

1. This ruling is on the notice of motion dated 12-6-2024. The motion which is by the 5<sup>th</sup> to 15<sup>th</sup> Defendants is brought under sections 1A, 3A and 80 of the *Civil Procedure Act* and Orders 9 rule 9, 45 and 51 of the Civil Procedure Rules.

The motion seeks the following orders.

- i. That the firm of M/s Ngari and Kabura Advocates be and is hereby granted leave to come on record for the Applicants.
  - ii. That the Judgment of this court dated 26-1-2023 be reviewed.
  - iii. That the costs of this application be provided for.
2. The motion is based on eight grounds and is supported by an affidavit sworn by Martin Chege Muriithi, the 15<sup>th</sup> Defendant, dated 12<sup>th</sup> June 2024. Annexed to the affidavit, there is the notice for indemnity issued to the Nelson Kimemia Njenga, Evans Irungu Mutugi and David Ngari Mwangi who are sued as trustees of Philadelphia Investment Group. The notice has various sums sought as indemnity. Other annexures include a copy of the valuation report by upcountry valuers.
  3. The gist of the motion is as follows. Firstly, the Plaintiff filed this suit seeking to be declared the owner of the suit land among other orders. Secondly, the 5<sup>th</sup> to 15<sup>th</sup> Defendants stated in their defence that they bought the suit land from Philadelphia Investment Group. Thirdly, they sought indemnity against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants vide a notice dated 3-6-2020 for compensation of the suit land as per the valuation report on record. Fourthly, at page 29 of the judgment the court granted the Applicants the indemnity sought without stating the actual figures awarded. As a result, the judgment on record remains ambiguous making the filing of this motion necessary so that the court may now state the actual amounts awarded to each of the Defendants.
  4. The motion though served is unopposed by any of the Respondents.

I have carefully considered the motion in its entirety including the grounds and the affidavit. I have also perused the entire record. I find that one issue arises.

- i. Whether the motion meets the threshold for review.

It is my finding that the motion meets the threshold for review because there is a minor error apparent on the face of the record in that the judgment inadvertently left out the amounts to be awarded to each of the Defendants. Order 45 rule 1 (1) (b) allows for review, “on account of some mistake or error apparent on the face of the record...”

Consequently, I correct the error in the following terms.

Defendant Amount awarded.

5<sup>th</sup> Kshs 1,350,000/=

7<sup>th</sup> Kshs 4,680, 000/=



8<sup>th</sup> Kshs 1,350,000/=

9<sup>th</sup> Kshs 3,450,000/=

10<sup>th</sup> Kshs 1,350,000/=

12<sup>th</sup> Kshs 3,510,000/=

13<sup>th</sup> Kshs 1,350,000/=

14<sup>th</sup> Kshs 1,610,000/=

15<sup>th</sup> Kshs 4,350,000/=

The motion dated 12-6-2024 is allowed in terms of prayers 1,2 and 3 and more specifically as above.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 18<sup>TH</sup> DAY OF MARCH, 2025.**

**M.N. GICHERU**

**JUDGE.**

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Applicant's Counsel – Mr. Kaburu

16<sup>th</sup> and 17<sup>th</sup> Defendant's Counsel

Plaintiff Counsel – Mbue Ndegwa

TABLE

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