



**Gideon Estate Residential Association & 3 others v Maina & 2 others
(Petition E002 of 2020) [2025] KEELC 3687 (KLR) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3687 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
PETITION E002 OF 2020
LC KOMINGOI, J
APRIL 24, 2025**

BETWEEN

**GIDEON ESTATE RESIDENTIAL ASSOCIATION 1ST PETITIONER
JOSEPHAT KARUNGO WAWERU 2ND PETITIONER
IBRAHIM ORUMA 3RD PETITIONER
JOHN MUREITHI 4TH PETITIONER**

AND

**STANLEY MAINA 1ST RESPONDENT
ACK RIMPA CHURCH, DIOCESE OF MOUNT KENYA
SOUTH 2ND RESPONDENT
FRANCIS KURENDE 3RD RESPONDENT**

RULING

1. This ruling is in respect of the Notice of Motion dated 3rd October 2024 brought under Sections 1A, 1B, 3A of *Civil Procedure Act*, Order 1 Rule 10 (2), Order 8 Rules 3,5, and 8 of the Civil Procedure Rules and all other enabling provisions of the Law.
2. It seeks orders;
 - i. That the Petitioners be granted leave to amend their petition herein.
 - ii. That upon allowing this application, the Amended Petition be deemed as if filed before this Hon. Court.
 - iii. Spent



- iv. That Pending hearing and determination of the petition, a temporary injunction restraining the 2nd and 3rd Respondents either by themselves, their servants, contractors, workers, employees and/or agents from conducting church activities, erecting temporary structures on the 1st Respondent's property and/or erecting permanent church structures on the land known as Land Reference Number Ngong/Ngong/40788 or any other property situated in Gideon Estate Drive.
 - v. Spent
 - vi. That costs of this application be in the cause.
3. The Notice of Motion is supported by the affidavit of Josephat Karungo Waweru, the 2nd Petitioner and the Secretary of the 1st Petitioner sworn on the 3rd of October 2024.
 4. The application is opposed. There is a Replying Affidavit sworn by Francis Kurende, the 3rd Respondent herein sworn on the 5th March 2025.
 5. The Notice of Motion was canvassed by way of oral submissions on 17th February 2025.
 6. I have considered the Notice of Motion, the Affidavit in support, the Response thereto and the Rival Submissions. The issue for determination is whether the application is merited.
 7. It is the Petitioners' case that the 2nd Respondent has purchased Ngong/Ngong/40788 within Gideon Estate and they intend to put up a permanent structure. It is also their case that this continues to violate their rights. They have attached some photographs which show that the construction is about to commence.
 8. The Respondents on the other hand contend that the Petition has been overtaken by events as the subject property in issue in 2020 was in respect of Ngong/Ngong/40784 whose lease expired on 23rd November 2023.
 9. The 2nd Respondent has since vacated the suit property. They also contend that the amended Petition introduces new parties and new suit properties. It is also their case that the application does not mean the threshold for grant of temporary injunction.
 10. It appears that the 2nd Respondent has indeed acquired another suit property within Gideon Estate. There is intention to put up some structures on the same for worship. I hereby allow the Petitioners leave to amend the Petition to reflect the new suit property.
 11. There is however no evidence that the 2nd Respondent has commenced the church services on the suit property. For this reason, I decline to grant any orders of temporary injunction.
 12. In conclusion, I find merit in this application and I grant the orders sought namely;
 - a. That the Petitioners are hereby granted leave to amend the Petition.
 - b. That the draft amended Petition be deemed to be duly filed upon payment of the requisite fees.
 - c. That costs of this application do abide the outcome of the Petition.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 24TH DAY OF APRIL 2025.

L.KOMINGOI
JUDGE



IN THE PRESENCE OF:

Mr. Njunge for the Petitioners

Mrs. Mageto for the Respondents

Court Assistant: Mutisya

