



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kobia v Mbiti (Environment & Land Case E006 of 2025)  
[2025] KEELC 3270 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3270 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT & LAND CASE E006 OF 2025**

**JO MBOYA, J**

**APRIL 8, 2025**

**BETWEEN**

**ALICE KAJUJU KOBIA ..... APPLICANT**

**AND**

**KELVIN KIRIMI MBITI ..... RESPONDENT**

**RULING**

1. The Applicant herein has approached this honourable court vide Notice of Motion Application dated 8<sup>th</sup> March 2025 brought pursuant to the provisions of Orders 40 and 51 of the Civil Procedure Rules, 2010; Sections 1A; 1B; 3 and 3A of the *Civil Procedure Act*, Chapter 21, Laws of Kenya; and Article 159 of *the Constitution* of Kenya, and in respect of which same [Applicant] has sought the following reliefs;
  - i. That this Application be and is hereby certified urgent and interim reliefs be granted to preserve the substratum of this suit.
  - ii. That this Honourable Court be pleased to issue a temporary injunction to prevent the Respondent from selling, charging and in any way from interfering with the Applicant's possession and utilization of the property known as Njia/Kiegoi/1112, Meru County measuring 0.81 Ha or thereabout, pending the hearing and determination of this Application.
  - iii. That this Honourable Court be pleased to issue a temporary injunction to prevent the Respondent from selling, charging and in any way from interfering with the Applicant's possession and utilization of the property known as Njia/Kiegoi/1112, Meru County measuring 0.81 Ha or thereabout, pending the hearing and determination of the Originating Summons dated 28th February, 2025 hereof.
  - iv. That the costs be in the cause hereof.



2. The instant application is premised on the various grounds which have been highlighted in the body thereof. In addition, the application is supported by the supporting affidavit sworn by the Applicant [deponent] on the 8<sup>th</sup> March 2025 and to which the Applicant has annexed various documents including a copy of the green card [register of title] and a copy of the certificate of title [title deed] registered in the name of one Kennedy Mugambi Kobia [now deceased].
3. Moreover, the Applicant also sought for and obtained leave of the court to file a further affidavit. To this end, the Applicant filed a supplementary affidavit sworn on the 29<sup>th</sup> March 2025 and to which the Applicant has exhibited copies of Tea payment receipts and a copy of the court order issued vide Maua CMC ELC No. 82 of 2017.
4. The Respondent filed a Replying affidavit sworn on the 24<sup>th</sup> March 2025 and in respect of which the Respondent has exhibited a total of 14 annexures including a copy of the certificate of title issued in respect of the suit property. Furthermore, the Respondent has also exhibited a copy of the certificate of confirmation of grant issued vide Meru HCC Succession Cause No. 208 of 2012 pertaining to and concerning the estate of Kennedy Mugambi Kobi [now deceased].
5. The instant application came up for hearing on the 25<sup>th</sup> March 2025 whereupon the advocates for the respective parties covenanted to canvass and dispose of the application by way of written submissions. To this end, the court issued directions as pertains to the filing and exchange of the written submissions. In addition, the court also circumscribed the timelines for the filing and exchange of the written submissions.
6. The Applicant proceeded to and filed written submissions dated the 31<sup>st</sup> March 2025 and wherein the Applicant has raised and canvassed two [2] salient issues. The issues raised and canvassed by the Applicant are, namely; the suit property was gifted to and in favour of the Applicant by Kennedy Mugambi Kobia [now deceased]; and the Applicant has since acquired adverse possessory rights to and in respect of the suit property on account of the longevity of occupation thereof.
7. The Applicant has contended that Kennedy Mugambi Kobia [now deceased] was her brother. Furthermore, it has been contended that the deceased allowed the Applicant's mother and who was the grand mother of the Respondent herein to live and/or reside on the suit property. Besides, it has been contended that the deceased also allowed the Applicant to enter upon and reside on the suit property alongside her [Applicant's] mother.
8. It was the further submissions by the Applicant that over time, the deceased gifted the suit property to and in her favour. In this regard, the Applicant has averred that the deceased ventured forward and handed over the original certificate of title [title deed] of the suit property unto her.
9. Moreover, the Applicant has contended that the deceased gifted the suit property unto her and in this regard, the Applicant has invoked and relied on the concept of gift inter-vivos as the basis of her occupation, possession and use of the suit property.
10. To buttress the submissions touching on and concerning gift inter-vivos, the Applicant has cited and referenced the decision in the case of M'emenchu Mto Akwalu alias George Kaburu [deceased] 2018eKLR.
11. Secondly, learned counsel for the Applicant has submitted that by virtue of her occupation, possession and use of the suit property same [Applicant] has since acquired lawful rights to and in respect of the suit property. In particular, it has been contended that the Applicant has acquired rights vide adverse possession.



12. To the extent that the Applicant has acquired rights vide adverse possession over and in respect of the suit property, it has been contended that the rights which have been acquired ought to be protected and preserved.
13. Arising from the foregoing, it has been contended that the Applicant's rights and/or interests which have been accrued over the suit property are rights that are protected vide Article 40 of *the Constitution*. To this end, learned counsel for the Applicant has implored the court to find and hold that the Applicant has demonstrated and established a prima facie case with probability of success.
14. In support of the submissions that the Applicant has established and demonstrated a prima facie case with probability of success, learned counsel for the Applicant has cited and referenced the decision in the case of *Giella v Cassaman Brown* [1973]EA 358.
15. Flowing from the foregoing, learned counsel for the Applicant has therefore invited the court to find and hold that the application beforehand meets and or satisfies the requisite conditions to warrant the grant of the orders of temporary injunction.
16. The Respondent filed written submissions dated the 3<sup>rd</sup> April 2025 and wherein the Respondent has raised and canvassed four [4] salient issues for determination by the court, namely; that the Applicant has neither established nor proved a prima facie case with probability of success; the Applicant's occupation of the suit property has never been adverse and/or hostile to the Respondent's rights thereto; the Respondent has since vacated the suit property and is no longer in occupation thereof; and the Respondent is the registered proprietor of the suit property and thus entitled to exclusive occupation thereof.
17. Regarding the first issue, learned counsel for the Respondent has submitted that the Applicant herein entered upon and commenced her residence on the suit property when the Respondent's father [Kennedy Mugambi Kobia] brought his mother [Respondent's grandmother] to reside on the suit property.
18. Furthermore, it has been submitted that the Applicant's entry onto and occupation of the suit property was on the basis that the Applicant was taking care of her [Applicant's] mother and who was the grandmother of the Respondent herein. Nevertheless, it has been posited that following the death of the Respondent's grandmother, the Applicant herein vacated and moved out of the suit property in the year 2022.
19. Arising from the foregoing, it has been contended that the circumstances surrounding and underpinning the Applicant's possession of the suit property does not meet statutory threshold for adverse possession or at all.
20. To this end, learned counsel for the Respondent has submitted that the Applicant has therefore failed to establish and demonstrate the existence of a prima facie case with probability of success or at all.
21. Secondly, learned counsel for the Respondent has submitted that the claim by the Applicant, namely, that same was gifted the suit property by Kennedy Mugambi Kobia [now deceased] cannot be canvassed on the basis of adverse possession. In particular, it has been contended that the claim for gift inter vivos is mutually exclusive and antithetical to a claim for adverse possession.
22. Thirdly, learned counsel for the Respondent has submitted that the Applicant herein moved out and vacated the suit property in the year 2022. To this end, it has been posited that the Applicant herein is no longer in possession and or occupation of the suit property and hence the plea of adverse possession is not only premature but misconceived.



23. Further and at any rate, learned counsel for the Respondent has submitted that having moved out of the suit property, the requisite ingredients that underpin a claim for adverse possession stand extinguished. In this respect, learned counsel for the Respondent has cited and referenced the decision in the case of *Mtana Lewa v Kahindi Ngala Mwangandi* [2015]eKLR; and *Mbira v Gachuhi* [2002] 1 EA LR 137, respectively.
24. Finally, learned counsel for the Respondent has submitted that the suit property, which was hitherto owned by Kennedy Mugambi Kobia [deceased] was subjected to succession proceedings and thereafter the suit property was lawfully transmitted unto him [Respondent]. In this regard, it has been contended that upon the lawful transmission and registration of the suit property in favour of the Respondent same became the lawful owner thereof.
25. By virtue of being the registered owner and or proprietor of the suit property, the Respondent has submitted that same is therefore bestowed with statutory rights and privileges underpinned by the provisions of Sections 24 and 25 of the *Land Registration Act*, 2012.
26. To the extent that the Respondent is the registered proprietor of the suit property, it has therefore been submitted that the Respondent is entitled to occupation and possession of the suit property. In any event, it has been posited that no basis has been laid and or established to warrant the grant of the orders of temporary injunction or at all.
27. In view of the foregoing, it has been submitted that the Applicant herein has failed to meet and/or satisfy the requisite ingredients to warrant the grant of the application beforehand. Consequently, the court has been invited to dismiss the application with costs to the Respondent.
28. Having reviewed the application and the response thereto and upon consideration of the written submissions filed on behalf of the respective parties, I come to the conclusion that the determination of the application herein turns on three [3] salient issues, namely; whether the Applicant has established and demonstrated the existence of a prima facie case with probability of success or otherwise; whether the applicant shall be disposed to suffer irreparable loss unless the orders sought are granted; and what reliefs ought to be issued, if at all.
29. Respecting the first issue, namely; whether the Applicant has established and demonstrated the existence of a prima facie case with probability of success or otherwise, it is imperative to recall that the Applicant's claim is based and/or predicated on the doctrine of adverse possession. To this end, it is therefore incumbent upon the Applicant to demonstrate albeit on a prima facie basis that the ingredients that underpin a claim for adverse possession exist in the instant situation.
30. Pertinently, it is common ground that any party, the Applicant not excepted, who is desirous to persuade a court of law to make declarations pertaining to acquisition of title by way of adverse possession must satisfy the requisite ingredients. Notably, the ingredients are captured in Latin as *nec vi, nec clam and nec precariou*
31. The ingredients that underpin a claim for adverse possession have also been highlighted and elaborated upon in a plethora of decision[s]. In the case of *Mtana Lewa v Kahindi Ngala Mganzi* [2015]eKLR, the Court of Appeal [per Asike Makhandia JA] stated thus;

Adverse possession is essentially a situation where a person takes possession of land and asserts rights over it and the person having title to it omits or neglects to take action against such person in assertion of his title for a certain period, in Kenya, is twelve (12) years. The process springs into action essentially by default or inaction of the owner. The essential prerequisites being that the possession of the adverse possessor is neither by force or stealth



or under the licence of the owner. It must be adequate in continuity, in publicity and in extent to show that possession is adverse to the title owner. This doctrine in Kenya is embodied in Section 7 of the *Limitation of Actions Act*, which is in these terms:-

“An action may not be brought by any person to recover land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.”

The *Limitation of Actions Act* makes further provision for adverse possession at Section 13 that:

- “(1) A right of action to recover land does not accrue unless the land is in the possession of some person in whose favour the period of limitation can run (which possession is in this Act referred to as adverse possession), and, where under sections 9, 10, 11 and 12 a right of action to recover land accrues on a certain date and no person is in adverse possession on that date, a right of action does not accrue unless and until some person takes adverse possession of the land.
- (2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in adverse possession, the right of action is no longer taken to have accrued, and afresh right of action does not accrue unless and until some person again takes adverse possession of the land.
- (3) For the purposes of this section, receipt of rent under a lease by a person wrongfully claiming, in accordance with section 12(3), the land in reversion is taken to be adverse possession of the land.”

32. Similarly, the ingredients that underpin a claim for adverse possession were also underscored in the case of *Mbira vs- Gachuhi* (2002) IEALR 137 where the court stated as hereunder:

“...a person who seeks to acquire title to land by the method of adverse possession for the applicable statutory period, must prove non-permissive or non-consensual actual, open, notorious, exclusive and adverse use by him or those under whom he claims for the statutory prescribed period without interruption...”

33. Duly guided by the holding in the decisions [supra], it is now apposite to revert to the subject matter and to discern albeit on a prima facie basis whether the Applicant herein has established a basis to warrant a claim for adverse possession.

34. I beg to remind myself of the fact that I am dealing with an interlocutory application wherein the Applicant is seeking for orders of temporary injunction. To the extent that I am dealing with an interlocutory application, I am alive to the fact that this court is not called upon to make any precipitate findings on facts and law. For good measure, the making of precipitate findings on facts and law is the preserve of the trial court whilst entertaining the plenary hearing. [See the holding in the case of *Mbuthia versus Jimba Credit Ltd* [1988]ek]

35. Nevertheless, there is no gainsaying that this court is obligated to make prima facie findings on facts and law, in its endeavour to discern proof and demonstration of a prima facies case with probability of success, or otherwise.



36. To start with, the Applicant has contended that the deceased, namely; Kennedy Mugambi Kobia, who was her brother gifted the suit property unto her [Applicant]. In this regard, the Applicant has invoked and relied on the concept of gift inter vivos.
37. Moreover, the Applicant has further contended that in demonstration of the gift inter-vivos, Kennedy Mugambi Kobia [deceased] proceeded to and handed over the original certificate of title [title deed] unto her.
38. What I hear the Applicant to be contending is that the suit property was gifted unto her by Kennedy Mugambi Kobia [now deceased]. If the suit property was gifted [I say, if] then the Applicant's occupation, possession and use of the suit property [if at all] was predicated on the basis of [sic] gift inter-vivos.
39. It then means that the Applicant's occupation, possession and use was never adverse and/or hostile to the rights of the Kennedy Mugambi Kobia [now deceased], who was the previous registered owner of the suit property.
40. If the Applicant's occupation, possession and use of the suit property was not adverse and hostile to the rights of the previous owners, then it means that the Applicant herein cannot espouse a claim for adverse possession as against the current owner, who acquired title vide transmission.
41. Furthermore, the Applicant's occupation appears [I say appears] to have been predicated on the permissions and consent of the previous registered owners. To this end, what comes to the fore is that the occupation under reference was permissive and consensual, which then destroys the ingredients that must be proved for one to stake a claim for adverse possession.
42. To underscore the position that the Applicant's occupation, possession and use of the suit property was not non-permissive or none-consensual, it is imperative to reproduce a segment of the Applicant's affidavit in support of the application.
43. Same are reproduced as hereunder;
  11. Having received and accepted the said gift inter vivos, I took full possession and continued to cultivate, to utilize and to enjoy proceeds of Tea bushes and other crops thereat without any interruption by anyone for over 18 years thereof.
  12. The Respondent did not interfere with the said property or affect the Applicant's occupation and utilization thereof for over 12 years since 2006 though the deceased's death on 5/8/2011, until recently when he purported to interfere thereof.
  13. I agreed to allow the Respondent to pursue any cause after he promised involve me to facilitate transfer of property known as Njia/Kiegoi/1112, Meru County measuring 0.81 Ha or thereabout to me as gift inter vivos hereof.
44. My reading of the paragraphs of the supporting affidavit, which have been reproduced herein before, drives me to the conclusion that there was an element of consent and permission underpinning the Applicant's entry onto and occupation of the suit property.
45. Moreover, the Applicant herein has also contended that same was a sister of the deceased and thus a beneficiary and dependant of the original owner of the suit land. It is not lost on me that the original owner of the suit land was the father of the Respondent herein.



46. By virtue of staking a claim to the suit property on account of being a beneficiary and dependant of the original owner, it then means that the Applicant cannot in the same vein and breadth contend that same is in occupation of the suit property on account of adverse possession.
47. To contextualize the Applicant's claim predicated on the basis of being a beneficiary and dependant of the original owner, namely; Kennedy Mugambi Kobia [now deceased], it is imperative to reproduce the contents of paragraphs 18 and 19 of the further affidavit sworn on the 29<sup>th</sup> March 2025.
48. Same are reproduced as hereunder;
18. I am the deceased's sister, beneficiary and dependant of the original owner of the suit land namely Kennedy Mugambi Kobia by dint of Adverse Possession in respect of property known as Njia/Kiegoi/1112, Meru County measuring 0.81 Ha or thereabouts. However, the deceased did not execute transfer instruments.
19. The Respondent obtained a title deed through concealment and non-disclosure of material information that the property known as Njia/Kiegoi/1112, Meru County measuring 0.81 Ha or thereabout was given by the deceased as gift inter vivos many years before he died and I have been having possession and utilization of the same and getting Tea proceeds income for more than 12 years thereof.
49. The third perspective that is also discernible from the Applicant's claim relates to the contention that the transfer and registration of the suit property in the name of the Respondent was procured and obtained by fraud and concealment of material facts.
50. To comprehend the foregoing position, it suffices to take cognizance of the contents of paragraph 13 of the further affidavit sworn on the 29<sup>th</sup> March 2025.
51. The said contents are reproduced as hereunder;
13. The Respondent fraudulently concealed material facts and mislead the court and parties by including the suit premises in the succession matters. He failed to inform the family on the progress of the succession matters thereof.
52. Flowing from the foregoing, it is apparent that the Applicant is also propagating a claim or cause of action on the basis of fraud and fraudulent acquisition of title.
53. The question that does arise is whether a plea of fraud and fraudulent acquisition of title can be canvassed contemporaneously with the claim of adverse possession. Suffice it to state that the answer to this question must await the plenary hearing.
54. Be that as it may, it is imperative to take cognizance of the decision of the Court of Appeal in the case of Richard Wefwafwa Songoi v Ben Munyifwa Songoi [2020]eKLR, where the court stated and held thus;
42. The appellant testified he started using the suit property when he was given by his father. In the same vein, the appellant claims title to the parcel by way of adverse possession. The appellant's claim is founded on title by way of gift from his father. He prevaricates and lays claim to the land parcel by way of adverse possession against the respondent. The pleas of title and a claim for adverse possession are mutually inconsistent and exclusive.
43. Comparatively, the Supreme Court of India in Mohan Lal –v- irza Abdul Gaffar, 1996, 1 SCC 639 faced with an inconsistent claim of title by agreement and adverse possession stated that since the appellant admitted he came into possession of land lawfully under an agreement and



continued to remain in possession till date of the suit, the plea of adverse possession was not available to the appellant. That having come into possession by agreement, he must disclaim his right thereunder and plead and prove assertion of his independent hostile adverse possession to the knowledge of the transferor and that the latter had acquiesced to his illegal possession during the entire period of 12 years.

44. Persuaded by the merits of the legal principle enunciated by the India Supreme Court and which we hereby adopt, in the instant matter, the appellant cannot found his claim to possession of the suit property on a gift from his father then also assert a claim over the parcel founded on adverse possession. He either proves he had a gift or proves independently his claim for adverse possession. The appellant's claim founded on a gift fails as his father had no proprietary interest in the suit property that he could gift to the appellant in 1970.
55. Furthermore, it is also instructive to reference the decision of the Court of Appeal in the case of Catherine Korinko & 3 Others v Evaline Rosa [2020]eKLR, where the court stated as hereunder;

In Haro Yonda Juaje –v- Sadaka Dzengo Mbauro & Kenya Commercial Bank (2014) eKLR it was stated:

- (29) One cannot succeed in a claim for adverse possession before conceding that indeed the registered proprietor of the land is the true owner of the said land. It does not lie in the mouth of a claimant to aver that the title held by the registered proprietor was fraudulently acquired and then claim the same parcel of land under the doctrine of adverse possession. If the Plaintiff's averment is that the title which was issued to the Defendant was fraudulently acquired, then his cause of action would be for the rectification of title by cancellation pursuant to the provisions of Section 143 of the Registered Land Act and not adverse possession. He cannot use the doctrine of adverse possession to go around the decision of the Minister.

In the application, the appellants sought to lay claim to the suit property on the basis of adverse possession. A claim for adverse possession is inconsistent with the claim for being a beneficiary of the estate of a deceased person.

56. Back to whether the Applicant has demonstrated and established a prima facie case. Instructively, what constitutes a prima facie case was highlighted in the case of Mrao Ltd v First American Bank of Kenya Ltd [2003]eKLR, where the court stated as hereunder;

A prima facie case in a civil application included but was not confined to a genuine and arguable case. It was a case which, on the material presented to the court, a tribunal properly directing itself would conclude that there existed a right which had apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.

57. Bearing in mind, the perspective[s] that must be proved in an endeavour to establish a prima facie case and taking into account the discourse highlighted in the preceding paragraph[s], I am afraid that the Applicant herein has failed to meet the statutory threshold pertaining to proof of prima facie case.
58. Having failed to prove and establish the existence of a prima facie case, which constitutes the prelude/ precursor to partaking of an order of injunction, it would have been appropriate to terminate the ruling at this juncture. For good measure, where an Applicant fails to establish a prima facie case then the court has no business venturing forward to address the likelihood of irreparable loss arising. [See the holding in the case of Kenya Commercial Finance Ltd v Afraha Education [2001]EA].



59. Notwithstanding the foregoing observation, I am minded to venture forward and address the question of irreparable loss albeit in brief.
60. Irreparable loss was succinctly and aptly defined by the Court of Appeal in the case of *Ngurman Ltd v Jan Bonde Nielsen & Others* [2014]eKLR as hereunder;

On the second factor, that the applicant must establish that he “might otherwise” suffer irreparable injury which cannot be adequately remedied by damages in the absence of an injunction, is a threshold requirement and the burden is on the applicant to demonstrate, prima face, the nature and extent of the injury. Speculative injury will not do; there must be more than an unfounded fear or apprehension on the part of the applicant. The equitable remedy of temporary injunction is issued solely to prevent grave and irreparable injury; that is injury that is actual, substantial and demonstrable; injury that cannot “adequately” be compensated by an award of damages. An injury is irreparable where there is no standard by which their amount can be measured with reasonable accuracy or the injury or harm is such a nature that monetary compensation, of whatever amount, will never be adequate remedy.

61. Bearing the foregoing definition in mind, I am now well disposed to interrogate whether the Applicant has demonstrated the likelihood of irreparable loss arising and/or accruing, if the orders of temporary injunction are not granted.
62. The Applicant herein contends that same has been in occupation and possession of the suit property continuously for a duration in excess of 12 years. In this regard, the Applicant posit[s] that if the orders of temporary injunction are not granted, then same [Applicant] shall be disposed to be evicted from the suit property.
63. On the other hand, the Respondent filed an elaborate replying affidavit and wherein same contended that the Applicant herein vacated and moved out of the suit property in the year 2022. Furthermore, it has been posited that following the departure of the Applicant from the suit property in the year 2022, same [Applicant] has never returned to the suit property.
64. The Applicant filed a further affidavit sworn on the 29<sup>th</sup> March 2025 and wherein same acknowledges that she was [sic] evicted from the suit property albeit illegally and without a court order.
65. To this end, it is apposite to take cognizance of the contents of paragraph 10 of the further supporting affidavit. Same states as hereunder;
  10. I had stayed on the suit land uninterrupted for over 12 months. My properties are still at the suit premises to date. The Respondent has been threatening me since August, 2024 when he showed up at the suit premises. The purported eviction by the Respondent and the said chief was unlawful because there was no court order of eviction or notice thereof. Moreover, this was after 12 years of my possession of the suit premises.
66. From the Applicant’s own mouth, same concedes that she was evicted from the suit property. The obtaining position is to the effect that the Applicant is no longer in occupation and/or possession of the suit property. In this regard, the question that does arise is what loss shall the Applicant suffer now that she is not in possession of the suit property.
67. My short answer as pertains to the question of irreparable loss is to the effect that the Applicant has failed to demonstrate the likelihood of irreparable loss arising and/or accruing. If anything, the apprehended loss has already occurred on account of [sic] what the Applicant calls illegal eviction.



68. Next is the question of what reliefs, if any; ought to be granted. Any party who seeks to procure an order of temporary injunction must satisfy the ingredients highlighted in *Giella v Cassaman Brown* [1973] EA 358 sequentially. To this end, it means that an Applicant must start by proving a prima facie case and thereafter venturing to establish irreparable loss.
69. As pertain to the instant matter, the Applicant has been unable to establish and/or prove the requisite ingredients. The consequence of such failure is to the effect that the entire application is rendered unmeritorious.

**FINAL DISPOSITION:**

70. Flowing from the analysis which have been captured in the body of the Ruling, it must have become crystal clear that the application beforehand is devoid and bereft of merits.
71. Consequently, and in the premises, the final orders of the court are as hereunder;
- i. The Application dated the 8<sup>th</sup> March 2025, be and is hereby dismissed.
  - ii. Costs of the Application be and are hereby awarded to the Respondent.
  - iii. The interim order[s] of Injunction hitherto granted be and are hereby discharged.
72. Before departing from the matter, it is imperative to point out that the Respondent herein filed the application dated the 27<sup>th</sup> March 2025 and wherein same sought to have the interim orders granted on the 14<sup>th</sup> March 2025 vacated and or discharged. Notably, the court has proceeded to and discharged the said orders as part of the final dispositive orders issued elsewhere herein before.
73. It then means that the application dated the 27<sup>th</sup> March 2025 is without basis. Same is hereby dismissed albeit with no orders as to costs.
74. Nevertheless, the final orders of the court are as captured in paragraph *para\_71 71* hereof.
75. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MERU THIS 8<sup>TH</sup> DAY OF APRIL 2025.**

**OGUTTU MBOYA**

**JUDGE.**

In the presence of

Mutuma – Court Assistants

Mr. Kurauka for the Plaintiff/Applicant

Mr. Hosea Mutembei for the Defendant/Respondent

