



Rotich v Kirui (Sued as the legal representative of the Estate of Jane Jepkemboi Kirui - Deceased) (Land Case E006 of 2024) [2025] KEELC 3183 (KLR) (7 April 2025) (Ruling)

Neutral citation: [2025] KEELC 3183 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
LAND CASE E006 OF 2024
GMA ONGONDO, J
APRIL 7, 2025**

BETWEEN

JULIUS KIPCHIRCHIR ROTICH APPLICANT

AND

KIMBERLY JEPKOECH KIRUI (SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF JANE JEPKEMBOI KIRUI - DECEASED) RESPONDENT

RULING

1. By a Notice of Motion application dated 24th February 2025 commenced under, inter alia, Article 50 of *the Constitution* of Kenya 2010 and sections 1A, 1B, 3, 3A and 18 of the *Civil Procedure Act* Chapter 21 Laws of Kenya, the applicant, Julius Kipchirchir Rotich through Cheruiyot Melly and Associates Advocates, is seeking the following orders;
 - a. Spent
 - b. That this Honourable court be pleased to order that the County Surveyor Nandi County do visit the locus quo otherwise known as Nandi/Itigo/383 (The suit land) to ascertain the acreage as well as occupation thereof and thereafter compile a Report and file the same in court within a period of time as may be determined by this Honourable Court.
 - c. That the OCS, Mosoriot Police Station or any other police station to provide security to the County Surveyor during the exercise.
 - d. That the costs of the application be provided for.
2. The application is premised upon the applicant's supporting affidavit as well as the grounds which include;
 - a. That it is needful that the County Surveyor Nandi County does visit the locus quo otherwise known as Nandi/Itigo/383 to ascertain the acreage as well as occupation by each party and



thereafter compile a Report and file the same in court within a period of time as may be determined by this Honourable court as this will enable the court to resolve the issues before it with certainty.

- b. That this application needs to be heard and security be provided on priority basis in order for this court to resolve the issues before it with certainty from the Report that will be provided by the County Surveyor.
3. The respondent was duly served thus, made aware of the existence of the application as disclosed in the affidavit of service sworn on 19th March 2025; see also *Ogada v Mollin* [2009] eKLR.
4. Besides, the respondent failed to reply to the application.
5. So, is the application merited?
6. The applicant has sought the principal order for the County Surveyor Nandi County to visit the locus quo and ascertain acreage and occupation of the suit land. The same is in consonant with sections 18 and 19 of the *Land Registration Act* 2016 [2012].
7. Clearly, the application is tailored to meeting the ends of justice.
8. So, find the application is steadfast and meritorious.
9. In the result, the application is hereby allowed in terms of the 2nd and 3rd prayers therein as set out in paragraph 1 (b) and (c) hereinabove.
10. The report of the County Surveyor Nandi County be filed in court before 28th May 2025 for mention.
11. Costs of the application be in the cause.
12. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 7TH DAY OF APRIL 2025.

G M A ONGONDO

JUDGE

PRESENT

Mr Biwott instructed by Cheruiyot Melly and Associates Advocates

learned counsel for the applicant

Walter, court assistant

