



**Kimari & another v Land Registrar Nakuru Land Registry (Environment and Land
Judicial Review Case E3 of 2021) [2022] KEELC 13745 (KLR) (25 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 13745 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E3 OF 2021
FM NJOROGE, J
OCTOBER 25, 2022**

BETWEEN

BENJAMIN GITERE KIMARI 1ST APPLICANT

**HANNAH NGINA KENNETH KIMARI (ADMINISTRATORS OF THE ESTATE
OF THE LATE KENNETH KIMANI KAHURA) 2ND APPLICANT**

AND

LAND REGISTRAR NAKURU LAND REGISTRY RESPONDENT

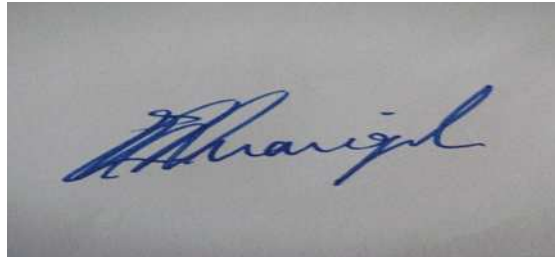
RULING

1. The applicants moved the court through Chamber Summons dated 18/03/2021 where they sought leave to apply for an order of *Mandamus* “to remove and/or lift the restriction pursuant to provision of section 78 (1) & (2) of the [Land Registration Act](#), 2012 to L.R Nakuru/Municipality Block 5/294.”
2. The court granted the applicants leave on 22/03/2021 and ordered that the substantive motion be filed within 21 days. It is also on record that the applicants had not filed the Notice of Motion at the time the court was preparing for judgment and D. O. Ohungo J upon realizing that he could not do a judgment without the substantive application on record, opted to give directions on 27/04/2022. The said directions were sent via email to the Ex parte Applicant on 13/10/2022 but this elicited no response.
3. It is not in dispute that the court called for the Notice of Motion from the ex parte applicants several times to no avail. It is also a fact that there is currently no substantive application on record to make a determination on and it therefore leaves this court with no other option but to vacate the leave granted on 22/03/2021 and order that the file be marked as closed.
4. Consequently, I hereby issue the following orders:



- a. The leave granted pursuant to the chamber summons dated 18/3/2021 is hereby vacated and that application is hereby dismissed;
- b. Each party shall bear their own costs of the proceedings;
- c. This file shall be marked by the court registry as closed.

Dated, signed and delivered at Nakuru via electronic mail on this 25th day of October, 2022.

A photograph of a handwritten signature in blue ink on a light-colored background. The signature is cursive and appears to read 'Mwangi Njoroge'.

MWANGI NJOROGE

JUDGE, ELC, NAKURU

**NKR ELC JR NO. E003/21 RLNG - DF-19.3.21/FH-22.3.21/FBM: 25.05.22/LH-25.5.22/
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