



REPUBLIC OF KENYA



**Gitau & 3 others v Kirure & 2 others (Environment & Land Case
E036 of 2022) [2022] KEELC 15462 (KLR) (20 December 2022) (Ruling)**

Neutral citation: [2022] KEELC 15462 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E036 OF 2022
MN GICHERU, J
DECEMBER 20, 2022**

BETWEEN

**WILLY GITAU 1ST PLAINTIFF
IRENE NJERI PAUL 2ND PLAINTIFF
YEUNNAH WANJIRU MURIUKI 3RD PLAINTIFF
PATRICK KANGETHE 4TH PLAINTIFF**

AND

**ALICE KIRURE 1ST DEFENDANT
HENRY LEPARAYUA 2ND DEFENDANT
LAND REGISTRAR, NGONG 3RD DEFENDANT**

RULING

1. This ruling is on the notice of motion dated April 19, 2022. The said motion is brought under order 41, rules 2 and 3 of the *Civil Procedure Rules*. It seeks one main prayer as follows. Pending the hearing and determination of this suit, an order of injunction do issue restraining the defendants by themselves, their agents and or servants from interfering with the plaintiffs' ownership, occupation, use and registration of all those parcels of land known as Ngong/Ngong/100402- 100413.
2. The application is supported by an affidavit sworn by second plaintiff in which she deposes that she and her co- plaintiffs are the registered owners of all the parcels known as Ngong/Ngong/100402-100413 which they occupy. They purchased the property from one George Kamau Kihoke. The 6th defendant (there is no such defendant in this suit) has confiscated the plaintiffs' green cards making it difficult to conduct a search which is a requirement in approval of development plans. Annexed to the affidavit are copies of the title deed for LR Ngong/Ngong/100407, 100408, 100410, 100412 and 100413.



3. The application is unopposed by the respondents. They were given up to 30th June to file and serve a replying affidavit. No such affidavit or grounds of opposition were filed either within or even outside the timelines.
4. I have considered the notice of motion carefully and I find that it has merit but only in respect of the five parcels whose title deeds have been annexed to the supporting affidavit. Firstly, the applicants have established a *prima facie* case with a probability of success. They have also proved that they are in occupation of the five parcels which tilts the balance of convenience in their favour. In contrast, the respondents have not annexed any documents of ownership to the five suit parcels whose copies of title deeds have been produced as evidence.

For the above stated reasons, I allow the notice of motion dated April 19, 2022 in terms of prayer (d) but only in respect to parcels numbers 100407, 100408, 100410, 100412 and 100413 respectively.

It is so ordered.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 20TH DAY OF DECEMBER, 2022.

M.N. GICHERU

JUDGE

