



**Mwangi & another (Suing for and on behalf of the Members
Wiyumiririe Women Group) v Muruga (Environment & Land Case
346 of 2017) [2025] KEELC 480 (KLR) (10 February 2025) (Order)**

Neutral citation: [2025] KEELC 480 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE 346 OF 2017
BM EBOSO, J
FEBRUARY 10, 2025**

BETWEEN

LYDIA WANJIRU MWANGI 1ST PLAINTIFF

BEATRICE MUMBI 2ND PLAINTIFF

**SUING FOR AND ON BEHALF OF THE MEMBERS WIYUMIRIRIE WOMEN
GROUP**

AND

ESTHER WACHU MURUGA DEFENDANT

ORDER

1. This suit was initiated in 2017 by Lydia Wanjiru Mwangi and Beatrice Mumbi on behalf of Wiyumiririe Women Group, an unincorporated Self Help Group [hereinafter referred to as “the Group”]. They contended that in 1994, the Group purchased 2½ acres out of LR No. 10087/108 from the late George Muruga Kiari [hereinafter referred to as “the deceased”] whose estate is administered by Esther Wachu Muruga. They further contended that upon the deceased selling the 2½ acres to the Group, the Group took possession of the 2½ acres, subdivided the land, and allocated the land to 39 members of the Group, some of whom had fully developed their respective plots.
2. The plaintiffs contended that despite the defendant receiving a further sum of Kshs. 200,000 from the Group to facilitate processing of succession papers relating to the estate of the deceased and conveyance of the 2½ acres to the Group, she had failed to process the conveyance. They sought, among other reliefs: (i) a permanent injunction restraining the defendant against dealing with LR No 10087/108 in a manner prejudicial to the Group’s interest in the 2½ acres; (ii) an order cancelling subdivisions effected to LR No 10087/108 by the defendant; and (iii) a mandatory injunction compelling the defendant to excise the 2½ acres and convey the same to the Group.



3. The suit was heard on 22/10/2024 before Eboso J. During trial, the plaintiff called one witness. The defendant too called one witness. The two witnesses basically adopted their written statements and produced the documents in their respective trial bundles. Upon the parties filing written submissions, the Court reserved a Judgment date in the matter.
4. It has emerged at the stage of preparing to write a Judgment that in 2010, the Succession Court issued a Certificate of Confirmation of Grant relating to the estate of the late George Muruga Kiarie, distributing the whole of the suit land to various beneficiaries, most of whom are not parties to this suit. The legal import of the Certificate of Confirmation of Grant is that, were this Court to find that the 2½ acres, which the Group is claiming in this suit, was not available for distribution as part of the net free assets of the deceased, the said beneficiaries will stand condemned without being heard in this dispute. Kenya's law does not permit condemnation of a property owner by a court of law without the property owner being heard.
5. For this reason, the court comes to the finding that all the persons named as beneficiaries in the Certificate of Confirmation of Grant dated 4/1/2010 are necessary parties for the effectual and complete adjudication and settlement of the key questions in this dispute. They are entitled to be heard in the dispute.
6. Consequently, the Court hereby invokes its jurisdiction under Order 1 rule 10 (2) of the Civil Procedure Rules and directs joinder of all the persons named as beneficiaries in the Certificate of Confirmation of Grant relating to the estate of the late George Muruga Kiari aka George Muruga Kiarie, together with any other person appearing in the title(s) relating to the suit land. Secondly, the order reserving a judgment date in this suit is hereby vacated on the ground that the persons affected by the orders sought in the suit are entitled to be heard in the dispute. Fresh trial will be conducted after joinder and service of relevant court papers.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 10TH DAY OF FEBRUARY, 2025

B M EBOSO [MR]

JUDGE

In the Presence of

Mr Mwangi for the Plaintiff

Ms Nkonge for the Defendant

Mr. Tupet – Court Assistant

