



Nyale & 3 others v Mwango & 4 others (Environmental and Land Originating Summons 47 of 2023) [2025] KEELC 411 (KLR) (5 February 2025) (Ruling)

Neutral citation: [2025] KEELC 411 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 47 OF 2023
EK MAKORI, J
FEBRUARY 5, 2025**

BETWEEN

**REUBEN TINGA NYALE 1ST PLAINTIFF
JOSEPH NYALE MWANGO 2ND PLAINTIFF
KASSIM MWANGO NYALE 3RD PLAINTIFF
EDWARD KAZUNGU NYALE 4TH PLAINTIFF**

AND

**KITI NYALE MWANGO 1ST DEFENDANT
KHAMIS NYALE MWANGO 2ND DEFENDANT
JOSEPHAT MUCHERE MARETE 3RD DEFENDANT
LAND REGISTRAR KILIFI 4TH DEFENDANT
ATTORNEY GENERAL MALINDI 5TH DEFENDANT**

RULING

1. The court has diligently reviewed several applications filed by the involved parties. These include the plaintiff's application dated 27th November 2023 seeking injunction orders, the defendants' application dated 4th December 2024 seeking similar orders, the application dated 5th December 2023 seeking directions to preserve the suit property, the application dated 15th December 2023 seeking to have the defendants committed to civil jail for contempt, the application dated 19th November 2023 seeking to vary ex parte orders, issued by this Court on 6th December 2024(Njoroge J.)and the application dated 8th February 2024 seeking joinder of an interested party to this suit.
2. The Court reckoned that the parties had brought many applications, convoluting the matter.



3. On 14th November 2024, after reviewing the record, this court decided to deal with the application for joinder, allowing Sarah Wanjiru Macharia to be joined in these proceedings as an interested party.
4. The court reckoned that applications had been overtaken by events. Significantly, the court directed parties to maintain the status quo on the ground and no interference with the registration of the suit property pending the hearing and determination of the main suit.
5. On 17th December 2024, the parties requested this court review and deliver a ruling on the pending applications. I understand the importance of a fair and expedited process, and I believe, given the status quo orders, the matter should be set down for hearing and fast-tracked.
6. Given the many applications on record, this court, on 22nd January 2024, directed the Deputy Registrar to visit the site and prepare a ground report to guide the court in interpreting the status quo orders issued earlier by this court.
7. The report is dated 7th February 2024; among other things, it states:

“The land is fenced using wire mesh. There is a green metal gate at the entrance of the property. The gate was not locked. Inside the property, there was no structure to show human occupation. However, building debris was a few meters after entering the compound. Wheel marks, possibly from a tractor, were visible on the ground.

The compound contained trees, maize, and cut-down trees. A patch on the ground shows that burning occurred, and one shoe was present.

In conclusion, there is no human habitation on the parcel of land. However, there is a clear indication that the property owner has restricted access by installing a gate and putting up a wire mesh fence around the property.”
8. The report depicts that the suit property is not inhabited. Therefore, the status quo orders that the court issued require the suit property to remain not inhabited and its registration to stay as it is until this suit is heard and determined.
9. Therefore, the pending applications will be spent in that manner, with no orders regarding costs.

DATED, SIGNED, AND DELIVERED AT MALINDI VIRTUALLY ON THIS 5TH DAY OF FEBRUARY 2025.

E. K. MAKORI

JUDGE

In the Presence of:

Mr. Lijoodi for, for the Plaintiff

Ms. Kamau for the 1st – 3rd Defendants

Happy: Court Assistant

In the Absence of:

Ms. Apiyo, for the Interested Party

