



REPUBLIC OF KENYA



KENYA LAW
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**Katola & 5 others v Chief Land Registrar & 2 others (Environment & Land
Case E030 of 2023) [2025] KEELC 4245 (KLR) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4245 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT & LAND CASE E030 OF 2023**

AY KOROSS, J

JUNE 3, 2025

BETWEEN

**KELVIN KATOLA 1ST PLAINTIFF
BETTY KASINGA 2ND PLAINTIFF
REBECCA KASINGA 3RD PLAINTIFF
MONICA KASINGA 4TH PLAINTIFF
DAVID MUMO 5TH PLAINTIFF
BEATRICE MBULI 6TH PLAINTIFF**

AND

**CHIEF LAND REGISTRAR 1ST DEFENDANT
THE HON ATTORNEY GENERAL 2ND DEFENDANT
DIRECTOR OF SURVEYS 3RD DEFENDANT**

RULING

1. This is a ruling in respect of notice of motion dated 28/09/2023 filed by the plaintiffs, where they seek orders inter alia: -
 - a. Spent.
 - b. Spent.
 - c. Pending the hearing and determination of the suit filed herewith, this honourable court be pleased to issue orders restraining the defendants herein from transferring, dealing or in any other manner interfering with the plaintiffs' quiet possession and use of the parcels of land known as LR Nos. 27968, 27969, 27970, 27971, 27971 and 27976.



- d. That this honourable court be pleased to issue any other order it may deem just and fit in the interest of justice.
 - e. That the costs of this motion be provided for.
2. The motion is supported by the grounds set out in the body thereof and the 4th plaintiff's affidavit sworn on 28/09/2023.
 2. A summary of the grounds in support of the motion are that a) the 1st, 2nd, 3rd, 4th and 6th plaintiffs are respectively the registered owners of LR Nos. 27968, 27969, 27970, 27971 and 27976, whereas Kavinya K. Uмба was the registered owner of LR. 27972 [jointly referred to as suit properties], b) they were allotted these parcels of land by the commissioner of lands on 22/02/1995; and
 2. C) They had learnt the 1st defendant was issuing new certificates of titles over the suit properties to 3rd parties, yet the plaintiffs held good titles, d) lastly, these actions were fraudulent, duplicitous, and they were apprehensive their parcels of land maybe disposed off.
 5. The motion is opposed vide the defendants' grounds of opposition dated 19/03/2024 by Senior State Counsel Mr.Peter Kuria. In them, counsel raised the following grounds: -
 - a. The motion is incompetent, frivolous, scandalous, and devoid of merit, and the supporting affidavit is full of falsehoods, misrepresentations of facts and law, inconsistent and unsupported conclusions tailored to hoodwink this court.
 - b. The motion offends the mandatory provisions of Section 16 of the [Government Proceedings Act](#), Cap 40 Laws of Kenya, as an injunction cannot lie against the Government.
 - c. The motion does not satisfy the tenets for granting a temporary injunction as were laid down in the case of Giella versus- Cassman Brown & Co. Limited (1973) EA 358.
 - d. An injunction cannot be issued to prevent or prohibit the exercise of public function or statutory powers.
 - e. The motion is a mere empty shell and made in vacuo.
 - f. The orders sought cannot be granted by this court as they touch on the constitutional and statutory rights of third parties, not parties to this suit.
 5. As directed by the court, submissions were received from the law firm of Ms. Okatch and Partners on record for the plaintiff, and Mr. Kuria for the defendants, and they were respectively dated 22/11/2024 and 2/12/2024.
 5. Having considered the motion, its grounds, affidavit, grounds of opposition and well-written rival submissions, the issues for determination are: -
 - a. Whether injunctive reliefs can be issued against the government.
 - b. Whether the plaintiffs have met the threshold to warrant the grant of injunctive relief.
 5. Accordingly, these 2 issues that have been framed for resolution shall be handled shortly in a seriatim manner.
 5. Regarding the 1st issue, only the defendants' counsel argued on it and as rightfully submitted, the prayer for injunctive relief against the defendants, which are government bodies, was not properly before the court by virtue of Section 16 (1) (i) of the [Government Proceedings Act](#), Cap 40.



5. This provision of law expressly prohibits the grant of injunctions against the government and its related bodies, and this position was equally emphasised in the Court of Appeal decision of Attorney General & another v African Commuter Services Ltd [2014] KECA 790 (KLR). In other words, injunctive relief cannot be issued against them.
5. Being government bodies and as provided in Section 16 (1) (i), the appropriate prayer that the plaintiffs could obtain against the government is that of a declaration. In light of this, it is unnecessary to address the 2nd issue.
5. Ultimately, this court finds the notice of motion dated 28/09/2023 is not merited, and it is hereby dismissed with costs to the defendants. A mention date shall be issued for pretrial directions.

Orders accordingly.

DELIVERED AND DATED AT MACHAKOS THIS 3RD DAY OF JUNE, 2025.

HON. A. Y. KOROSS

JUDGE

03.06.2025

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform

In the presence of;

Mr Kuria for defendant

M/s Amutavi for plaintiff

Ms Kanja- Court Assistant

