



**Wambui & 2 others v Land Registrar, Nairobi & 2 others; Kariuki (Interested Party)
(Environment & Land Case 204 of 2018) [2025] KEELC 4414 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4414 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 204 OF 2018**

**JG KEMEI, J
JUNE 12, 2025**

BETWEEN

**TERESIA WAMBUI 1ST PLAINTIFF
LUCY WAMAITHA 2ND PLAINTIFF
SAMUEL NJOROGE KARIUKI 3RD PLAINTIFF**

AND

**LAND REGISTRAR, NAIROBI 1ST DEFENDANT
FRANCIS KIARIE WAWERU 2ND DEFENDANT
ATTORNEY GENERAL 3RD DEFENDANT**

AND

SAMUEL NJOROGE KARIUKI INTERESTED PARTY

RULING

1. The Applicant moved this court vide the application dated the 31/1/25 seeking the following orders;
 - a. That the orders of Hon Court made on 19/9/2024 dismissing the suit filed herein be reviewed varied and or aside.
 - b. That the suit filed herein be reinstated
 - c. Costs of the application
2. The application was supported on the grounds annexed thereto and the supporting affidavit of the Applicant sworn on the 31/1/25. The deponent avers that on the 22/1/25 in the process of perusing the file, he discovered that the suit was dismissed for non-appearance of either parties to show cause why the suit should not be dismissed pursuant to the provisions of Order 17 Rule 2 of the CPR. That



in the circumstances the orders of the court issued on the 19/9/24 were made without the applicant and the parties being given the chance of being heard. The court was urged to set aside the dismissal orders in the interest of justice.

3. The 1st Respondent filed a replying affidavit in which he refuted that the case was ever dismissed but stayed pending a similar succession matter in the probate court.
4. On the 2/4/25 the court directed that the application be canvassed by way of written submissions and reserved the date for the ruling.
5. I have considered the application the responses and the written submissions the key issue is whether the application has merit.
6. This suit was filed on 27/4/2018 but for one reason or another the hearing is yet to be concluded. That said the proceedings on record attest to the fact that the suit is part heard.
7. On the 19/9/2024 learned Counsel Mr. Wakiaga, counsel on record for the Plaintiffs and the Interested party informed the court that there is a pending succession case before the High Court and sought orders to stay the proceedings pending the outcome of the succession cause. Ms. Nchogu learned counsel for the 1st Defendant agreed with him and the court proceeded to record the following orders/ directions;

“This matter is stayed pending the outcome of the High Court Succession cause Misc No E17/2024 – in the matter of the Estate of Teresia Wambui. The matter shall be marked as closed.”

8. My reading of the orders of the court is that this suit was stayed pending the determination of the succession cause and was temporarily closed. The position taken by the applicant to the effect that the suit was dismissed is not borne by the record/proceedings in the file, and is therefore misleading to say the least.
9. For purposes of clarity this suit is still active and it is upto the parties to advise the court that the reason for staying the matter is now spent after which they may take appropriate directions on how to proceed with the matter.
10. Final Orders for Disposal
 - a. The application is therefore misconceived and is hereby dismissed.
 - b. I order the applicant to pay the costs of the application.
11. Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 12th DAY OF JUNE, 2025 VIA MICROSOFT TEAMS.

J. G. KEMEI

JUDGE

Delivered Online in the presence of:

1. Mr. Wakiaga for the Applicants and the Interested Party.
2. Ms. Kubai for the 1st and 3rd Respondent
3. Ms. Nchogu for the 2nd Respondent



4. CA – Ms. Yvette Njoroge

