



**Gathirimu & another v County Land Registrar, Kiambu; Ngunjiri (Interested Party)  
(Judicial Review 5 of 2022) [2023] KEELC 18687 (KLR) (10 July 2023) (Order)**

Neutral citation: [2023] KEELC 18687 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
JUDICIAL REVIEW 5 OF 2022**

**BM EBOSO, J  
JULY 10, 2023**

**BETWEEN**

**DANIEL GIKONYO GATHIRIMU ..... 1<sup>ST</sup> APPLICANT**

**PETER MWAURA GATHIRIMU ..... 2<sup>ND</sup> APPLICANT**

**AND**

**THE COUNTY LAND REGISTRAR, KIAMBU ..... RESPONDENT**

**AND**

**ROSE WAIRIMU NGUNJIRI ..... INTERESTED PARTY**

**ORDER**

1. Through a notice of motion dated 14/7/2022, the applicants sought an order vacating a caution registered in the encumbrances section of the land register relating to land parcel number Dagoretti/Uthiru/553. Pre-trial proceedings were conducted by the Deputy Registrar. The only time the motion was listed before a judge of this court was on 15/5/2023. On that particular day, counsel for the applicants informed the court that the motion had been canvassed through written submissions and invited the court to render a determination on it. Counsel for the respondent indicated that she would rely on the grounds of opposition and would not be filing written submissions.
2. Based on the foregoing, the court reserved a date for judgment in this matter. While preparing to write the judgment, the court has perused the pleadings and the affidavits of service which informed the pre-trial proceedings before the Deputy Registrar. It does emerge that the interested party is alleged to have been served through email address: rosengunjiriw@gmail.com. It is not clear where the applicants got this email address from.



3. It does also appear that although Rose Wairimu Njunjiri was designated as a mere interested party, she is the cautioner and she ought to have been joined as a substantive respondent. She is the person who should be invited to step forward and show cause why the caution should not be vacated.
4. It is therefore clear that the cautioner may not be aware of this suit. Secondly, there is need to join the cautioner as a substantive respondent. Consequently I make the following orders:
  - a. The notice of motion dated 14/7/2022 shall be amended forthwith to designate Rose Wairimu Ngunjiri as a substantive respondent.
  - b. The motion shall be served on Rose Wairimu Ngunjiri through a prominent notice in either the Daily Nation Newspaper or the Standard Newspaper.
  - c. The order reserving a date for judgment in this suit is hereby vacated.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 10<sup>TH</sup> DAY OF JULY 2023**

**B M EBOSO**

**JUDGE**

In the Presence of: -

Mr Owino for the Exparte Applicant

Court Assistant: Hinga

