



**Lelei & 2 others (All Suing on Their Own Behalf and as Officials of St. Monica Women Group) v Mutai & another (Environmental and Land Originating Summons E010 of 2024) [2025] KEELC 3888 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3888 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E010 OF 2024  
GMA ONGONDO, J  
MAY 19, 2025**

**BETWEEN**

**IRENE JEPCHUMBA LELEI ..... 1<sup>ST</sup> APPLICANT  
MARTHA JELAGAT TIONY ..... 2<sup>ND</sup> APPLICANT  
ANNA JEPKINYOR KOSGEI ..... 3<sup>RD</sup> APPLICANT  
ALL SUIING ON THEIR OWN BEHALF AND AS OFFICIALS OF ST. MONICA  
WOMEN GROUP**

**AND**

**SUSAN CHELIMO MUTAI ..... 1<sup>ST</sup> DEFENDANT  
PAMELA KOSGEI ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. By the Notice of Motion application dated 30<sup>th</sup> October 2024-the 1<sup>st</sup> application, the three applicants through Rotich, Langat and Partners Advocates are seeking the following orders;
  - a) That in the alternative this Honorable Court be pleased issue temporary of injunction and or maintenance of the Status Quo prevailing at the moment on the subject matter, Nandi/ Ndalat/411 and 999 meaning the applicants are in gainful possession and occupation a portion of the subject matter measuring 0.1 Acres pending hearing and determination of this suit.
  - b) The OCS Kabiyet police station to provide security during the implementation of the orders of this Honourable Court to prevent miscarriage of justice law and Order.
  - c) Costs be provided for in favour of the Applicants.



2. Also, in the Notice of Motion application dated 17<sup>th</sup> February 2025-the 2<sup>nd</sup> application, the three applicants through Rotich, Langat and Partners Advocates have sought the orders infra;
  - a) That the respondents be cited for Contempt of Court for disobeying and disregarding this Honourable Court's orders.
  - b) That This Honourable Court be pleased to order and direct maintenance of status quo ante/prior to the illegal eviction of the Applicants meaning that the Applicants are in gainful possession and occupation of a portion measuring 0.1 Acres out of the subject matter pending hearing and determination of this suit.
  - c) That upon being cited the said Respondents be given such a punishment as the Court deems fit including being committed to Civil Jail for a period of 6 months and
  - d) That costs of this application be borne by the Respondent.
3. Mr Bungei instructed by Mr Rotich learned counsel for the applicants has sought to have the two applications abandoned to pave way for hearing of the instant suit.
4. Ms Koech learned counsel for the respondents has no opposition to the withdrawal of both applications. However, she urged the court to order that there be maintenance of status quo over the subject matter and in particular, that the respondents are in possession of the said parcels of land pending the outcome of this suit.
5. Further, learned counsel for the respondents implored the court to award costs to the respondents who responded to the two applications. She relied on section 27 of the [Civil Procedure Act](#) Chapter 21 Laws of Kenya.
6. In rejoinder, Mr Bungei affirmed that the respondents are in possession of the suit parcels of land. That however, costs can be shared by the parties in both applications.
7. In the foregone, the applicants have sought to withdraw the two applications to allow the hearing and conclusion of this suit in a timely fashion which is too plain for argument; see [Martin Kabaya-vs-David Mungania Kiambi](#) (2015) KECA 526 (KLR).
8. Furthermore, Article 159 (2) (b) of the [Constitution of Kenya 2010](#) provides;  
'Justice shall not be delayed.'
9. There is no dispute that the prevailing status quo is that the respondents are in possession of two suit parcels of land which are the subject matter herein.
10. It is trite law that status quo is meant to meant to preserve the property in dispute pending the outcome or termination of a case; see [Ogada-vs-Mollin](#) (2009) eKLR.
11. Moreover, this court has the mandate to grant preservation orders inclusive of status quo, in the interim, pursuant to section 13 (7) of the [Environment and Land Court Act](#), 2015 (2011).
12. On costs, I am guided by the proviso to section 27 (1) of the [Civil Procedure Act](#) (supra) and the Supreme Court of Kenya decision in the case of [Rai & 3 others-vs-Rai & 4 others](#) (2014) eKLR that the same is within the discretion of the court.
13. In the premises, an interim status quo order over the subject matter is merited and it is hereby ordered and directed thus;



- a. The applicants' applications dated 30<sup>th</sup> October 2024 and 17<sup>th</sup> February 2025, be and are hereby marked as withdrawn with costs in the cause.
- b. The respondents to remain in possession of the two suit parcels of land pending the outcome of this suit.

9. Ordered accordingly.

**DATED AND DELIVERED AT KAPSABET THIS 19<sup>TH</sup> DAY OF MAY 2025.**

**G M A ONGONDO**

**JUDGE**

Present;

Mr Bungei instructed by Mr Rotich learned counsel for the applicants

Ms Koech learned counsel for the respondents

Mr Walter Kipkorir, court assistant

