



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Kambo v Kambo & 6 others (Land Case E032 of 2024)  
[2025] KEELC 4501 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4501 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
LAND CASE E032 OF 2024  
MN GICHERU, J  
JUNE 16, 2025**

**BETWEEN**

**LEMETOR WANGUI KAMBO ..... PLAINTIFF**

**AND**

**NANCY NDUTA KAMBO ..... 1<sup>ST</sup> DEFENDANT**

**MOSES GITHIRIA NDUNGU ..... 2<sup>ND</sup> DEFENDANT**

**MONICA WAMBUI KAMABO ..... 3<sup>RD</sup> DEFENDANT**

**HANNAH NYAMBURA WANGUI ..... 4<sup>TH</sup> DEFENDANT**

**MARY WAIRIMU KAMBO ..... 5<sup>TH</sup> DEFENDANT**

**ELIZABETH WAITHIRA GACIANGU ..... 6<sup>TH</sup> DEFENDANT**

**LAND REGISTRAR MURANG'A ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

1. This ruling is on the motion dated 13-11-2014. The motion which is by the Plaintiff seeks the following residual orders.
3. That the Defendants be restrained by way of injunction by themselves, their employees, agents and/or any other persons claiming under their authority from disposing, purporting to sell, transferring ownership, entering, developing, constructing, wasting and/or in any way interfering with the Plaintiffs quiet enjoyment and occupation of land parcels Ithanga Phase 1/1818, 1819, 1820, 1823 and 1824 pending the hearing and determination of this suit.
4. That the costs of this suit be borne by the Defendants/Respondents.



2. The motion is brought under Orders 40 rule(1) and 51 rule 1 of the Civil Procedure Rules, Sections 1A and 1B of the *Civil Procedure Act* and all other enabling provisions of the law and is based on four grounds and is supported by an affidavit by the Plaintiff dated 13-12-2024.
3. The gist of the grounds and the supporting affidavit is as follows. Firstly, the suit parcels which being belong to the Plaintiff were fraudulently registered in the names of the 1<sup>st</sup> to 6<sup>th</sup> Defendants through the office of the 7<sup>th</sup> Defendant. Secondly, the 1<sup>st</sup> to 6<sup>th</sup> Respondents intend to sell the suit parcels. They have gone to the extent of bringing potential buyers to the land thereby interfering with the Plaintiff's occupation. Thirdly, there is need to preserve the suit parcels as there is a risk of selling them to the innocent third parties. Finally, the Plaintiff who is over 80 years old will be rendered destitute if her land is sold to third parties.
4. The motion is opposed by the Respondents and Mary Wairimu Kambo, the 5<sup>th</sup> Defendant has sworn a replying affidavit dated 31-1-2025 in which she responds as follows. Firstly, the suit parcels were the subject of Succession Cause No. 441 of 2006 at Thika Law Courts. Secondly, the Plaintiff did not subdivide the suit land fairly to all the beneficiaries. Instead, she colluded with one daughter by the name of Veronicah Wangechi Kambo who hid the original title deed with the aim of disinheriting her siblings. Thirdly, it is the reason why the said Veronicah Wangechi has been left out the suit when she occupies L.R. No. Ithanga Phase 1/882. Fourthly, the Defendants moved to Court through an application dated 12-9-2023 because they were unhappy with the conduct of the Plaintiff and Veronicah was ordered to surrender the original title deed to the Land Registrar for the purpose of subdivision but she defied the said order. Fifthly, when the court order was ignored, another application dated 24-11-2023 was filed and the court ordered the executive officer of the court to sign all documents necessary to effect the transfer of the 10 parcels hived from the subject parcel. There is mischief on the part of the Plaintiff because out of the ten parcels, she only seems to have a problem with the parcels of the 1<sup>st</sup> to 6<sup>th</sup> Respondents. The transfers were effected pursuant to a Court order which has not been set aside. These orders can only be set aside through an appeal yet none has been filed. Sixthly, the Plaintiff has filed a parallel application at Thika Magistrate's Succession Cause No.41 of 2006. Finally, it is a blatant abuse of the court process to have two active matters over the same subject matter. For the above and other reasons, the motion dated 13-11-2024 should be dismissed with costs.
5. The Plaintiff's counsel filed written submissions dated 20-3-2025. I do not see any submissions filed by the Defendant's Counsel.
6. I have carefully considered the motion dated 13-11-24 in its entirety including the grounds, the supporting and supplementary affidavits, the replying affidavit and the written submissions on record.

This being a suit that seeks an injunction in the interim and at the conclusion of the suit, what comes to mind is the case of Giella Vs . Cassman Brown. As per this case, the Plaintiff has to prove that she has a prima-facie case with a probability of success and secondly that she stands to suffer irreparable loss that cannot be adequately compensated with an award of damages if the order sought is not allowed. If the court is in doubt of the above two, it should look at the balance of convenience.

7. I find that the Plaintiff has not established a prima facie case with a probability of success. In paragraph 18 of the Plaint dated 13-11-2024, the Plaintiff avers as follows.

“There have been no previous proceedings and there is no pending suit in any court between the Plaintiff and the Defendants over the subject matter of this case.”



The Respondent have been able to prove vide annexures 2 and 3 to the replying affidavit dated 31-1-2025 that there is a previous suit being succession cause No. 411 of 2006 in which some of the parties in this case are parties in the case and the suit concerns L.R. No. Ithanga Phase 1/1818, 1819, 1820, 1823 and 1824.

This means that the Plaintiff is not being truthful in her verifying affidavit dated 13-11-2024 particularly in paragraphs 3 and 4 thereof where she says that there are no previous proceedings and that the facts deponed in the affidavit are true and correct.

8. The rationale behind the pleadings containing this averment of the existence of previous suits as per Order 4 rules 1(f) and 2 of the Civil Procedure Rules is to avoid the mischief of two different courts issuing two contradictory orders.

There is also prima facie evidence that the Plaintiff and Veronica Wangechi have disobeyed a court order issued in the Thika case. The Plaintiff should have disclosed the existence of the Thika case and shown how difference it is from this case. All this should be in the pleadings. It is not too late to do so because the pleadings can still be amended.

9. Since the Plaintiff has failed to establish a prima facie case with a probability of success, I will not look at the other prerequisites to the grant of the order sought by the Plaintiff. I find no merit in the motion dated 13-11-2024.

I dismiss it . Costs in the cause.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 16<sup>TH</sup> DAY OF JUNE, 2025.**

**M.N. GICHERU**

**JUDGE.**

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Plaintiff's Counsel – Miss Njoroge

Respondent's Counsel – Mr. Nduati

