



REPUBLIC OF KENYA



**Nguli v Kimanzi & 12 others (Environment and Land Case E004 of 2021)  
[2025] KEELC 6448 (KLR) (30 September 2025) (Judgment)**

Neutral citation: [2025] KEELC 6448 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT GARISSA  
ENVIRONMENT AND LAND CASE E004 OF 2021  
JM MUTUNGI, J  
SEPTEMBER 30, 2025**

**BETWEEN**

**MUSYOKA NGULI ..... PLAINTIFF**

**AND**

**CHARLES MUNYAO KIMANZI ..... 1<sup>ST</sup> DEFENDANT**

**ANNAH MUTHAKYE MUNYAO ..... 2<sup>ND</sup> DEFENDANT**

**DAVID MUTUA MUNYOKI ..... 3<sup>RD</sup> DEFENDANT**

**TITUS SYANDA KIMANZI ..... 4<sup>TH</sup> DEFENDANT**

**MUTHAKYE SYANDA ..... 5<sup>TH</sup> DEFENDANT**

**DAVID KAMUTI KIMANZI ..... 6<sup>TH</sup> DEFENDANT**

**AGNES DAVID KAMUTI ..... 7<sup>TH</sup> DEFENDANT**

**KIMANZI KAMUTI ..... 8<sup>TH</sup> DEFENDANT**

**DAVID KAMUTI KIMANZI ..... 9<sup>TH</sup> DEFENDANT**

**LAND REGISTRAR MWINGI SUB-COUNTY ..... 10<sup>TH</sup> DEFENDANT**

**THE DEMARCATION OFFICER KYUSO ADJ. SECTION ..... 11<sup>TH</sup> DEFENDANT**

**MINISTER LAND & URBAN SETTLEMENT ..... 12<sup>TH</sup> DEFENDANT**

**THE HON ATTORNEY GENERAL ..... 13<sup>TH</sup> DEFENDANT**

**JUDGMENT**

1. The Plaintiff initiated the present suit by a Plaint dated 17<sup>th</sup> November 2021 which he subsequently Amended on 30<sup>th</sup> June 2022. By the Amended Plaint, the Plaintiff prayed for orders:-



- a. An order directing Lands Registrar to amend records for land parcels Nos. Mwingi/Katse/2056, 2057, 2058, 2059 and 2061 to read the name of the Plaintiff.
  - b. Permanent Injunction restraining the Defendants either by themselves or their representatives from parcels No. Mwingi/Katse/2056, 2057, 2058, 2059 and 2061.
  - c. Cost and interest of the suit.
  - d. Any other relief of just relief the Honourable Court deems fit to grant.
2. The Plaintiff in the Plaint under paragraph 6 pleaded that the 1<sup>st</sup> to 9<sup>th</sup> Defendants compromised and colluded with the Land Adjudication/Demarcation Officer to have land parcels Mwingi/Katse/2056, 2057, 2058, 2059 and 2061 (“the suit parcels of land”) registered in their respective names in place of the Plaintiff who had been awarded the suit land by the clan. The Plaintiff’s claim was that the suit parcels of land were adjudicated to him during the adjudication process but the 1<sup>st</sup> to 9<sup>th</sup> Defendants fraudulently caused the parcels of land to be registered in their names.
  3. The 1<sup>st</sup> to 9<sup>th</sup> Defendants vide their statement of defence and Counterclaim dated 21<sup>st</sup> August 2022 denied the Plaintiff’s claim and by way of Counterclaim averred that they had been in possession of the suit lands from the 1970’s and continued to reside thereon with their families. They prayed that the titles issued to them be affirmed by the Court and that the Plaintiff’s suit be dismissed with costs.
  4. The Plaintiff testified as PW1 and called three (3) witnesses in support of his case including PW2, Thomas Bosire, an Adjudication and Settlement Officer, Kyuso Adjudication Area.
  5. The Plaintiff in his evidence relied on the witness statement that he had filed dated 21<sup>st</sup> November 2021 and the bundle of documents he had filed as per the list dated 21<sup>st</sup> November 2021 which were admitted as exhibits. It was the Plaintiff’s evidence that the land belonged to his father who gave the land to him (Plaintiff) as a gift. He stated the land belonged to his grandfather who left the same to his father. The Plaintiff testified that his father was polygamous and that the Defendants were children from his father’s other wife. He stated before his death, his father had distributed his land and the Defendants mother had been given her land.
  6. The Plaintiff further testified that the Adjudication Committee adjudicated the land in his favour when a dispute arose between him and the 5<sup>th</sup> and 6<sup>th</sup> Defendants. The Plaintiff exhibited the adjudication proceedings. The Plaintiff stated that the land was vacant and that nobody resided on the land. The Plaintiff under cross-examination denied that it was the Defendants who were awarded the suit land first. The Plaintiff stated demarcation was done first before the adjudication. He denied he was the one who appealed the decision of the Committee. The Plaintiff stated he was not involved in the objection lodged at Kyuso and that he was not aware of the same. The Plaintiff insisted that due process was followed before he was awarded the land by the Adjudication Committee.
  7. PW2, Thomas Bosire the Adjudication & Settlement Officer, Kyuso Administration Area in his evidence explained that Kyuso was the Head office of the Kyuso Adjudication Area and covered several Sub Counties. He testified that he had been at the Kyuso Office for only 8 months. He stated as per the records held at the office, the Land Adjudication Committee had made a Ruling dated 17<sup>th</sup> September 2015 where they granted 5 portions of land (2056 to 2061) to Musyoka Nguli following an objection. He stated there was a further decision made on 28<sup>th</sup> February 2017 following a complaint by Musyoka Nguli and the decision was he be recorded as owner of parcel 2061 and Kimanzi owner of parcel 2059 and there was yet another Ruling on the same date that Musyoka Nguli be awarded ownership of land parcel 2058. The Adjudication Officer indicated the records showed there was a further objection by Musyoka Ngunga and a Ruling was made on 19<sup>th</sup> January 2018 relating to parcels



- 2056 and 2058 and the objection was dismissed and that the parcels 2056 and 2058 remained as awarded to Charles Munyao and Titus Kimanzia respectively. The Adjudication Officer produced the copies of proceedings and Rulings as exhibits.
8. In Cross examination, the Adjudication Officer affirmed that Katse Adjudication Section fell under Kyuso Adjudication area. He stated the Ruling made on 17<sup>th</sup> September 2015 related to land parcels 2056, 2057, 2058, 2059, 2011 & 2061. He stated that in regard to the Ruling made on 19<sup>th</sup> January 2018 it was not clear who made the objection.
  9. PW3 Kalonzo Nzoka Ngungu testified that he was the Chairman of the Anzani Clan and affirmed that he knew the Plaintiff and the 1<sup>st</sup> to 9<sup>th</sup> Defendants and that they were all from his clan. He testified that the Plaintiff was awarded land parcels Mwigi/Katse/2056, 2057, 2058, 2059, 2011 and 2061 during the Land Adjudication. He stated that none of the disputants of the suit property has built on the land.
  10. Under Cross examination PW3 stated the Defendants father was deceased and he was not buried on the disputed land. He stated he did not know where the Defendants parcels of land were located. He stated the dispute regarding the land was between the Plaintiff and the 4<sup>th</sup> Defendant.
  11. PW4 James Muthami Nguli stated he was a Pastor and a farmer and that he was Chairman of the Adjudication Committee. He testified as per the Adjudication Committee the disputed land was allocated to the Plaintiff. He stated as a Committee they completed their work in 2015 and the Committee was disbanded in early 2016.
  12. Under cross examination PW4 affirmed that they held a sitting on 17<sup>th</sup> September 2025 as a Committee. He confirmed the dispute related to 5 parcels. He stated they went to the shamba (land) and verified that the land belonged to Musyoka. He could not recollect the Committee having a meeting on 28<sup>th</sup> February 2017. He stated the Plaintiff had brought a complaint before the Committee as his land had been subdivided.
  13. The 6<sup>th</sup>, 1<sup>st</sup> and 4<sup>th</sup> Defendants testified as DW1, DW2 and DW3 respectively. The witnesses are in their respective testimonies relied and adopted their respective witness statements and the documents filed in support of the 1<sup>st</sup> to 8<sup>th</sup> Defendant's case. The witnesses affirmed the Plaintiff was their Uncle and they (witnesses) were brothers. PW1 stated land parcels 2059 and 2061 belonged to him and were his inheritance from his father. He stated their father died in 2004 and he was not aware of any dispute between his father and the Plaintiff. He stated the land was subdivided amongst themselves (defendants) in 2014 and it was then the Plaintiff who objected to the Committee and the Committee ruled the land belonged to the Plaintiff. He stated they objected to the Ruling of the Committee and the land was awarded to them (Defendants) and the Plaintiff never appealed against that Ruling.
  14. Under Cross examination DW1 confirmed the objection by the Plaintiff was No. 51 and was ruled upon on 28<sup>th</sup> February 2017. He stated their objection was No. 58 and was in 2018. He affirmed the Ruling of the Plaintiff of 2017 was signed by the Chairman while the Ruling in their favour in 2018 was not signed.
  15. The evidence by DW2 and DW3 mirrored the evidence of DW1. DW2 however testified he was the one who filed the objection at Kyuso and he was awarded land parcel 2056 and the Plaintiff did not Appeal the decision.
  16. DW3 in his evidence admitted he attended the meeting of the clan but could not recall what they decided. He stated his parcel of land was 2058 which he inherited from his father. He said the disputes cropped up when the land was subdivided in 2014 and when the Committee awarded the land to the Plaintiff he filed an objection at Kyuso which was ruled in his favour. DW3 under cross examination



affirmed he was present and participated during the hearing of the Plaintiff's objection No. 51 which awarded the land to the Plaintiff.

17. The parties filed their final closing Written submissions as directed by the Court. The Plaintiffs submissions are dated 2<sup>nd</sup> May 2025; the 1<sup>st</sup> to 8<sup>th</sup> Defendants Submissions are dated 24<sup>th</sup> June 2025; and, those of the 10<sup>th</sup> – 13<sup>th</sup> Defendants are dated 14<sup>th</sup> July, 2025. The Court having reviewed the pleadings, the evidence and the submissions made on behalf of the parties, identifies the following issues for determination:-
  - i. Whether land parcels Mwingi/Katse/2056, 2057, 2058, 2059 and 2061 were subject to adjudication and if so in whose favour they were adjudicated?
  - ii. Whether any objections arose out of the adjudication process, and if so, how they were determined?
  - iii. Whether the Plaintiff is the beneficial owner of the suit parcels of land?
  - iv. Whether the acquisition of the suit parcels of land by the Defendants was lawful and valid?
  - v. Who bears the costs of the suit?
18. Both the Plaintiff and the Defendants do not dispute the land parcels the subject of the dispute fell within the Katse Adjudication Section. The parties in their evidence exhibited proceedings before the Adjudication Committee in support of their respective cases. PW2 Thomas Bosire the Adjudication and Settlement Officer, Kyuso Adjudication Area testified and produced records before the Court which affirmed that indeed the land, the subject matter of the dispute went through the process of adjudication. The issue for determination therefore is whether the land having been subjected to adjudication under the Land Adjudication Act, the process under the Act was complied with and to what effect. The Land Adjudication Act, has an inbuilt Dispute Resolution Mechanism and the Court's role, if any, is limited.
19. Under Section 6(1) of the Adjudication Act, an adjudication Committee is appointed for each adjudication Section by the Adjudication Officer in consultation with the Local administration. An Executive Officer for each adjudication Section is appointed under Section 6(2) of the Act to keep records and inform the recording Officer of the Committee's decisions. Section 20 of the Act sets out the functions of the Adjudication Committee as follows:-
  20. The Committee appointed for an adjudication Section shall –
    - (a) adjudicate upon and decide in accordance with recognized customary law any question referred to it by the demarcation officer or the recording officer;
    - (b) advise the adjudication officer or any officer subordinate to him upon any question of recognized customary law as to which he has sought its guidance;
    - (c) safeguard the interests of absent persons and persons under disability;
    - (d) bring to the attention of officers engaged in the adjudication any interest in respect of which for any reason no claim has been made;
20. Under Section 21 of the Act, any person dissatisfied with the decision of the Committee could complain to the Executive Officer of the Committee within 14 days, who was supposed to refer the complaint to the arbitration Board for determination. Section 21(3) and (4) of the Act provides as follows:-



- (3) Any person named in or affected by a decision of the committee who considers the decision to be incorrect may, within fourteen days after the decision, complain to the executive officer of the committee, saying in what respect he considers the decision to be incorrect.
  - (4) Upon receipt of a complaint under subsection (3) of this section, the executive officer of the committee shall refer it with all the particulars of the case to the executive officer of the board, who shall submit it to the Board.
21. The Recording Officer during the adjudication exercise is expected to consider all claims and to prepare an adjudication record in respect of every parcel of land under Section 19(1) of the Act and is supposed to rectify the forms to accord with any decision which the Adjudication Officer, the Committee or the Board may make in accordance with the Act as provided under Section 19(3) of the Act. The forms so prepared by the Recording Officer under Section 19 of the Act together comprise the adjudication record as provided under Section 23 of the Act. When the adjudication form is completed the same is signed by the Chairman and the Executive Officer of the Committee and by the owner of each interest in the parcel of land. Once the adjudication form is signed as provided under Section 23 of the Act together with the demarcation Map are collectively known as the Adjudication Register.
  22. Section 25 of the Act provides for the actions to be undertaken when the adjudication register has been completed. It provides as follows:-
    25. When the adjudication register has been completed, the adjudication officer shall so certify on the adjudication record and demarcation map, and shall then—
      - (a) deliver the duplicate adjudication record (bearing a copy of the certificate) to the Director of Land Adjudication;
      - (b) display the original adjudication register for inspection at a convenient place within the adjudication section; and
      - (c) give notice that the adjudication register has been completed and may be inspected at that place during a period of sixty days from the date of the notice.
  23. Under Section 26 of the Act any person with any objection to the Adjudication register may within Sixty (60) from the date of notice of completion object to the Adjudication Officer in writing and the Adjudication Officer after such further consultations and inquiries as may be necessary shall determine the objection. Where the period allowed for objection has expired, the Adjudication Officer under Section 26(4) of the Act prepares a No Objection Register in respect of any land not subject to an objection and delivers the same to the Director of Land Adjudication who certifies and forwards the No Objection Register to the Chief Land Registrar for registration and issue of individual title deeds.
  24. Under Section 29(1) of the Act, any person aggrieved by the determination of an objection to the Adjudication Officer under Section 26 has a right of Appeal within Sixty (60) after the date of determination to the Minister whose determination is final.
  25. I have made extensive reference to the Adjudication Act to illustrate what is entailed in an adjudication process as it is evident from the evidence by the Plaintiff and the 1<sup>st</sup> to 9<sup>th</sup> Defendants that the land the subject of these proceedings supposedly underwent an adjudication process. The evidence unfortunately does not show there was compliance with the provisions of the *Land Adjudication Act*. In particular, there was no evidence adduced to show and demonstrate that the land the subject matter



of the suit fell within an area that was declared to be under adjudication under Section 3 of the Act. There was equally no evidence adduced by either party to demonstrate that an Adjudication Officer was appointed by the Minister by notice in the Gazette under Section 4(1) of the Act to undertake the adjudication exercise. Section 4(1) of the Act provides as follows:-

4(1) Where an order is made under section 3 (1) of this Act, the Minister shall, by notice in the Gazette, appoint a public officer to be the adjudication officer for the adjudication area, and the adjudication officer may in writing appoint such demarcation officers, survey officers and recording officers, being public officers, as may be necessary for demarcating, surveying and recording interests within the adjudication area, and they shall be subordinate to him.

26. In the present case the Plaintiff relied on a Ruling made by the Adjudication Committee on 17<sup>th</sup> September 2015 that awarded him all the land parcels in dispute. This decision was signed by the Chairman of the Committee and the Executive Officer. It is not clear whether this decision was objected to but on 28<sup>th</sup> February 2017 objection No. 51, 52 and 53 were also determined in favour of the Plaintiff which related to land parcels 2058, 2059 and 2061 respectively and the decisions were duly signed by the Chairman and the Executive Officer of the Committee.

27. The Defendant appear to predicate their claim to the parcels of land to a determination made on 19<sup>th</sup> January 2018 where it is not apparent who the objector was and in respect of which decision. The Adjudication and Settlement Officer when he testified affirmed it was not clear or evident who the Objector was. As per the proceedings the Plaintiff is shown as Plaintiff (though it's an alteration). In the Ruling made on 19<sup>th</sup> January 2018 presumably by the Adjudication Officer, it was inter alia observed thus:-

“It is my view that this parcel be left to the Defendant as the Plaintiff filed the dispute but never attended hearing -----”

28. The decision as per the proceedings was as follows:-

“Objection dismissed parcel remain recorded to the Defendant, Charles Munyau Kimanzi in Plot No. 2056 and Titus Syonda Kimanzi in P/No. 2058.”

29. The proceedings do not appear logical as it was the Plaintiff who in 2015 was awarded all the 5 plots and as per the proceedings and Ruling made by the Committee made on 28<sup>th</sup> February 2017 it was him (Plaintiff) who was awarded parcels 2058, 2059 and 2061. It was therefore illogical that he could lodge an objection before the Adjudication Officer against an award that was favourable to him.

30. Be it as it may be, the evidence was unclear as to whether there was a lawful and valid adjudication process that led to the registration of the 1<sup>st</sup> to the 9<sup>th</sup> Defendants as the owners of the suit properties. As I observed earlier in this Judgment there was no evidence to demonstrate that Katse and/or Kyuso had been declared adjudication sections and/or areas. There was no evidence to demonstrate that the process of land adjudication as provided under the *Land Adjudication Act*, Cap 284 Laws of Kenya was complied with. There were no adjudication form exhibited for any parcel of land and/or an adjudication register for either Katse or Kyuso adjudication areas. There was no evidence of any completion of the adjudication register. The notice required to be issued under Section 25 of the Act regarding the completion of the adjudication register and inviting objections was not exhibited by any party.

31. In those circumstances, I cannot find and hold there was a Lawful and valid adjudication process carried out for the disputed parcels of land. I find and hold there was no lawful and valid adjudication process



in regard to parcels Mwingi/katse/2056, 2057,2058,2059 and 2061 and that the titles in respect of these parcels of land issued to the Defendants were not procedurally acquired and are null and void.

32. I order that the titles for land parcels Mwingi/Katse/2056, 2057, 2058, 2059 and 2061 be cancelled and that the Land Adjudication Officer, Kyuso Land Adjudication area do carry out adjudication limited to the 5 parcels of land in accordance with the provisions of the *Land Adjudication Act*, Cap 284 and determine who between the Plaintiff and 1<sup>st</sup> – 9<sup>th</sup> Defendants ought to be registered as owner of the parcels of land.
33. Having evaluated and analysed the evidence, I am satisfied neither the Plaintiff nor the 1<sup>st</sup> to 9<sup>th</sup> Defendants proved their claims as per the Plaintiff and counterclaim respectively to the required standard and neither deserved Judgment in their favour. It is my view that Justice would only be served to all if a fresh adjudication process as relates to the effected parcels of land is carried out. For that reason, the Plaintiff's suit as well as the 1<sup>st</sup> – 9<sup>th</sup> Defendants Counterclaim are dismissed but with no orders as to costs.
34. The Land Registrar Mwingi is ordered to cancel land titles issued in respect of land parcels number Mwingi/Katse/2056, 2057, 2058, 2059 and 2061 pending the filing of an adjudication register in respect of the same by the Director, Land Adjudication and Settlement.

It is so ordered.

**JUDGMENT DATED, SIGNED AND DELIVERED VIRTUALLY AT KERUGOYA THIS 30<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**J. M. MUTUNGI**

**ELC JUDGE**

