



REPUBLIC OF KENYA



**KENYA LAW**  
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**Nzimba v Kalunde & 29 others (Environment and Land Case Civil Suit  
234 of 2018) [2025] KEELC 6446 (KLR) (30 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6446 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS**  
**ENVIRONMENT AND LAND CASE CIVIL SUIT 234 OF 2018**  
**AY KOROSS, J**  
**SEPTEMBER 30, 2025**

**BETWEEN**

**CHRISTOPHER MUINDI NZIMBA ..... PLAINTIFF**

**AND**

**JOSEPH MASAU KALUNDE ..... 1<sup>ST</sup> DEFENDANT**  
**HOMEWARD AGENCIES LIMITED ..... 2<sup>ND</sup> DEFENDANT**  
**FELIX MANUAL JOSEPH ..... 3<sup>RD</sup> DEFENDANT**  
**LAMKA PROPERTIES LIMITED ..... 4<sup>TH</sup> DEFENDANT**  
**BHARAT PAREKH ..... 5<sup>TH</sup> DEFENDANT**  
**PRAVINCHANDRA JAMNADAS KAKAD ..... 6<sup>TH</sup> DEFENDANT**  
**PRANJAL VARSANI ..... 7<sup>TH</sup> DEFENDANT**  
**JOSEY NJOKI MUKIRI ..... 8<sup>TH</sup> DEFENDANT**  
**RODGERS MOTURI ONGERA ..... 9<sup>TH</sup> DEFENDANT**  
**NAOMI MWENDE KAISHA ..... 10<sup>TH</sup> DEFENDANT**  
**HENRY OIRERE ONGONDI ..... 11<sup>TH</sup> DEFENDANT**  
**PAARAS VARSANI ..... 12<sup>TH</sup> DEFENDANT**  
**ANTHONY MASOTI ONGONDI ..... 13<sup>TH</sup> DEFENDANT**  
**ROSE B. ONGERA ..... 14<sup>TH</sup> DEFENDANT**  
**BABU VARSANI ..... 15<sup>TH</sup> DEFENDANT**  
**FREDRICK INDOKO LUBULELLAH ..... 16<sup>TH</sup> DEFENDANT**  
**CHIEF LAND REGISTRAR ..... 17<sup>TH</sup> DEFENDANT**



HON ATTORNEY GENERAL .....	18 <sup>TH</sup> DEFENDANT
RECEIVERS OF UNITED INSURANCE COMPANY LIMITED (IN LIQUIDATION) .....	19 <sup>TH</sup> DEFENDANT
EVANS OMBATI ONCHWERI .....	20 <sup>TH</sup> DEFENDANT
CAROL MUTHEU .....	21 <sup>ST</sup> DEFENDANT
ANNE KALEKYE .....	22 <sup>ND</sup> DEFENDANT
MAUREEN KAISHA .....	23 <sup>RD</sup> DEFENDANT
MOSES OSIKO .....	24 <sup>TH</sup> DEFENDANT
KENVIN NYAKUNDI .....	25 <sup>TH</sup> DEFENDANT
JOB MAKORI .....	26 <sup>TH</sup> DEFENDANT
BEATRICE TOILI .....	27 <sup>TH</sup> DEFENDANT
RICHARD SIMWA .....	28 <sup>TH</sup> DEFENDANT
MAROA KEGOCHA .....	29 <sup>TH</sup> DEFENDANT
JATIN MEHTA .....	30 <sup>TH</sup> DEFENDANT

## RULING

1. This case was scheduled for judgment today, but unfortunately, the court is constrained to deliver a ruling instead of a judgment. This is because some entries in the certificate of title for the suit property in question, which is IR No. 44524 LR No. 12715/383, are either missing from the court record, incomplete, or illegible. This issue is particularly evident for entries no. 6-11, 18-23, 30-35, and 40-47. The same situation applies to the transfer instruments of LR Nos. 12715/12057, 12715/12058, and 12715/12071.
2. Within the provisions of Section 3A of the *Civil Procedure Act*, this court possesses inherent power to make such orders as may be necessary to achieve the ends of justice. Furthermore, Section 173 (1) of the *Evidence Act* grants this court broad discretion in obtaining relevant evidence before delivering its final decision. It can exercise these powers suo moto and may order the production of any document. This law states as follows: -
 

“A judge or magistrate may, in order to discover or to obtain proper evidence, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact whether or not it is otherwise admissible; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to object to any such question or order, nor, without leave of the court, to cross-examine the witness upon any answer given in reply to any such question:

Provided that judgment shall be based only upon facts which are otherwise admissible and which have been duly proved. Emphasis added.
3. Being guided by law and the aforementioned reasons, this court hereby issues the following orders: -



- a. Within 30 days hereof, the plaintiff does tender to this court clear, legible and complete copies of all entries on the certificate of title of IR No. 44524 LR No. 12715/383, together with copies of instruments of transfer on LR Nos. 12715/12057, 12715/12058 and 12715/12071, which should equally be clear, legible and complete.
- b. The matter shall be mentioned to confirm compliance and further directions.

It is so ordered.

**DELIVERED AND DATED AT MACHAKOS THIS 30<sup>TH</sup> DAY OF SEPTEMBER, 2025.**

**HON. A. Y. KOROSS**

**JUDGE**

**30.09.2025**

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform

In the presence of;

Mr. Ngai for plaintiff.

Mr. Kaka for 3<sup>rd</sup> defendant.

Mr. Kimutai for 4<sup>th</sup> to 10<sup>th</sup> defendant

Ms Kanja- Court Assistant

