



**Republic v Land Registrar Trans Nzoia County; Guantai (Interested Party);  
 Quantai (Ex parte Applicant) (Environment and Land Judicial Review Case  
 E004 of 2025) [2025] KEELC 6165 (KLR) (24 September 2025) (Judgment)**

Neutral citation: [2025] KEELC 6165 (KLR)

**REPUBLIC OF KENYA  
 IN THE ENVIRONMENT AND LAND COURT AT KITALE  
 ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E004 OF 2025  
 CK NZILI, J  
 SEPTEMBER 24, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE LAND REGISTRAR TRANS NZOIA COUNTY ..... RESPONDENT**

**AND**

**ELIZABETH MUTHONI GUANTAI ..... INTERESTED PARTY**

**AND**

**JOHN MWETI QUANTAI ..... EX PARTE APPLICANT**

**JUDGMENT**

1. The notice of motion before the court dated 18/6/2025 seeks an order of mandamus to compel the respondent to register him as the proprietor of Title No. Kitale Municipality Block 16/Kaura Wa Bechau/775. The reasons are contained on the face of the application, a statutory declaration of facts dated 13/3/2025, verifying affidavit of facts sworn by John Mwet Guantai on 13/3/2025. The annexures thereto are: a copy of a sale agreement dated 11/9/2024, bank transfer receipts and form, an application for consent to transfer, a copy of the registration form and a copy of the green card marked JWG- (1) – (5), respectively.
2. The facts are that the applicant bought the subject land from the interested party for Kshs. 1,000,000/=, who duly executed the transfer form, an application for land control board consent to transfer, issuance of the land control board consent on 14/11/2024 and lodged the same with the Lands Registry, following appearance before the land control board meeting at Kiminini on 24/10/2024.



3. It is averred that despite meeting all the conditions, the respondent has refused, neglected, and or refused to carry out its statutory obligation to register the transfer and issue a new title for the suit land, which violates its legitimate expectation.
4. The interested party has filed a replying affidavit, sworn by Esther Wanjiru Mugambi on 9/6/2025, a co-guardian and next friend of Elizabeth Muthoni Guantai, pursuant to an authority to plead attached as EWM-1. The deponent deposed that she was appointed by the court on 21/1/2025 as per annexure EWM-2, as the only surviving child of the interested party, the exparte applicant being her nephew. The deponent denied the existence of any agreement between the exparte applicant and the interested party; otherwise, as of the time alleged, the interested party was a patient at Cherangani Nursing Home, as per a referral letter, annexure marked EWM-3.
5. The deponent deposes that, looking at the sale agreement, the transfer was pegged on completion of the purchase price, and evidence of the same as per Clauses No. 1, 2, 3, 4, and 5 is lacking; hence, it is inconceivable how the transfer form and land control board consent were sought and executed.
6. The deponent denied any alleged appearance before the Kiminini land control board meeting for the issuance of the consent to transfer the land; otherwise, the same is a forgery. The deponent deposed that on 14/5/2025, the family members of the interested party wrote to the chairman of the land control board and the Assistant County Commissioner, seeking to be supplied with the Minutes for the subdivision of the parent title deed that gave rise to the suit parcel of land and also the land control board consent, as per annexure marked EWM-4. By a letter dated 20/5/2025, the Assistant County Commissioner categorically denied the existence of such a transaction; a copy is attached as annexure marked EWM-5.
7. In addition, the deponent deposed that a caution was lodged on 24/4/2023, over the original title deed, after the interested party was declared mentally unfit to transact vide a letter dated 21/7/2023, unknown to them, the applicant filed another psychiatric report to subdivide parcel Nos. 775, 776, and 777, which led to a caution placed against the three parcels on 11/6/2024.
8. The deponent stated that on 24/11/2024, under suspicious circumstances, two properties Nos. 775 and 776, were transferred to new owners after the caution was erased. Annexed are the copies of the report and green cards, marked EWM-6(a), (b), (c), and (d).
9. Further, the deponent stated that after placing the caution, the same may have triggered the applicant to move to court; otherwise, he is laced with malice and greed to obtain title without consideration. The application is termed scandalous, vexatious, and devoid of any truth.
10. Though the Hon. Attorney General was granted leave to put in a response, none was filed within 14 days from 7/7/2025. Equally, the court has not come across any supplementary affidavit by the exparte applicant.
11. A writ of mandamus seeks to compel the performance of a public duty, to remedy a defect of justice, where there is a specific legal duty and no specific legal remedy for enforcing that right. See Halsbury Laws of England 4<sup>th</sup> Edition Vol. 1 page 111. In Republic vs Principal Secretary, Ministry of Internal Security & Another Exparte Schon Noorani & Another [2018] eKLR, Mativo J, as he then was, held that mandamus is an equitable remedy serving to compel a public officer to perform his public duty, to control procedural delays and the ingredients include the existence of a public duty, a duty owed to the applicant and where there is a clear right to perform that duty.
12. An applicant must therefore meet the conditions that there was a prior demand for performance, a reasonable time to comply with the demand, and an express refusal or an implied refusal through an



unreasonable delay. Further, there must be no other adequate remedy available to the applicant; it must have some practical value or effect, there would be no equitable bar to the relief, and, on a balance of convenience, the order for mandamus should lie.

13. Section 14(1) (C) of the *Land Registration Act* sets out the general powers and duties of a Land Registrar. Under Sub-Rule 1c, he has a right to refuse to register any instrument. Under Sub-Rule 2a, the Chief Land Registrar can hear and determine appeals from the registries. In *Kenya National Examinations Council -vs- Republic, Ex parte Geoffrey Gathenji Njoroge & 9 others* [1997] eKL, the court held that where a statute imposes a duty, it leaves the discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid and that mandamus may not issue to demand that the duty be carried out in a specific way. In *Republic -vs- Land Registrar Laikipia East District, Ex parte Joshau Marete M’Kiambati & Others* [2021] eKLR, the court held that the Land Registrar, as a public officer, holds an office of trust with no obligation to register all transfers presented for registration.
14. The court said that such an officer must act with diligence, caution and circumspection, after he is satisfied that the documents presented are in order in all aspects. The court further held that the Land Registrar has discretion, including to call for additional confirmation or documents, and could withhold such registration until such a time, with a reasonable explanation, or on the basis of the existence of contradictory registers.
15. In this application, there is evidence from the interested party that a caution was registered against the title registers and queries raised on the authenticity of the ex parte applicant’s documents. Evidence of doubts as to the capacity of the respondent to deal with the transaction has also been brought to the attention of the Land Registrar and to this court.
16. The parameters of irrationality, unreasonableness, lack of logic, or meeting expected standards as held in *Pastoli -vs- Kabale District Local Government Council & Others* [2008] 2EA 300, in which the ex parte applicant in the circumstances must surmount. There is no evidence that the ex parte applicant moved the Land Registrar to remove the caution or restriction placed by the interested party as required under the law.
17. The upshot is that I find the application dated 18/6/2025 lacking merit. Equally, the court finds that there exist alternative remedies that the ex parte applicant can pursue in the circumstances obtaining. It is dismissed with no order as to costs.
18. Orders accordingly.

**JUDGMENT DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 24<sup>TH</sup> DAY OF SEPTEMBER 2025.**

In the presence of:

Court Assistant - Dennis

Miss Karani for Ambutsi for the applicant present

Odeyo for the respondent present

**HON. C.K. NZILI**

**JUDGE, ELC KITALE.**

