



**Kipeen v Adan & 2 others (Environment and Land Case
722 of 2017) [2025] KEELC 6877 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6877 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE 722 OF 2017
LC KOMINGOI, J
OCTOBER 9, 2025**

BETWEEN

NEEKA ENE KIPEEN PLAINTIFF

AND

FATUMA ADAN 1ST DEFENDANT

LAND REGISTRAR KAJIADO NORTH 2ND DEFENDANT

ATTORNEY GENERAL 3RD DEFENDANT

RULING

1. This is the Ruling in respect of the Notice of Motion dated 20th May 2025 brought under;

(Order 42 Rule 6 of the Civil Procedure Rules 2010, Sections 1A, 3A, 63 (e) of the *Civil Procedure Act* Cap. 21 Laws of Kenya, Sections 13 of the *Environment and Land Court Act*, 2012 and all other enabling powers and provisions of the Law)

2. It seeks Orders;

1. Spent.

2. Spent.

3. Spent.

4. That pending the hearing and determination of the intended appeal, this Honourable Court be pleased to issue an order restraining Land Registrar Kajiado, the 2nd Defendant/ Respondent, from implementing the Judgement delivered on 5th May 2025 in so far as it relates to the cancellation of all the entries relating to the transfer and ownership of Land Parcel No. Kajiado/Olchoro-Onyore/1872 to the Plaintiff/Applicant’s title(s) and all other subsequent



sub-divisions and transfers as well as the rectification of the land register to restore to the 1st Defendant/Respondent.

5. That the costs of this Application be in the cause.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 7.
4. The Applications is supported by the Affidavit of Neenka Kipeen, the Plaintiff/Applicant sworn on the 20th May 2025.
5. The Application is opposed.
There is a Replying Affidavit sworn by Hibac Abijah Ahmed Said, Administrator of the estate of the 1st Defendant, sworn on the 9th June 2025.
6. The Application was canvassed by written submissions.
7. I have considered the Notice of Motion, the Affidavit in support, the response thereto, the rival submissions and the authorities cited. The issues for determination is whether this application is merited.
8. It is the Plaintiff's/Applicant's case that she has been in actual and continuous possession of the suit property and that she stands to be dispossessed if these orders are not granted.
9. The 1st Defendant/Respondent on the other hand states that the Applicant admitted that she does not reside on the suit property and she does not utilize the same. That therefore the no substantial loss would be occasioned if these orders are not granted.
10. In the case of Machira T/a Machira & Co. Advocates Vs. East African Standard (2002) eKLR , the court stated thus;

“to be obsessed with the protection of an appellant or intending appellant in total disregard or flitting mention of the so far successful opposite party is to flirt with one party as crocodile tears are shed for the other, contrary to sound principle for the exercise of a judicial discretion. The ordinary principle is that a successful party is entitled to the fruits of his judgement or of any decision of the court given him success at any state. That is trite knowledge and is one of the fundamental procedural values which is acknowledged and normally must be put into effect by the way applications for stay for further proceedings or execution, pending appeal are handled....”

I am guided by the above authority in finding that the Plaintiff/Applicant has not demonstrated substantial loss.

11. In conclusion I find no merit in this application and the same is dismissed with costs to the 1st Defendant/Respondent.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 9TH DAY OF OCTOBER 2025.

L.KOMINGOI
JUDGE.

In the presence of:

Mr. Ochieng for the Plaintiff.



Mr. Onyango for Ms. Moturi for the 1st Defendant.

N/A for 2nd, 3rd Defendants.

Peter – Court Assistant.

