



REPUBLIC OF KENYA



**Mwangi & others v Francis Ndegwa Muriuki & another (Environment and Land Case E013 of 2025) [2025] KEELC 6817 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6817 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYERI  
ENVIRONMENT AND LAND CASE E013 OF 2025**

**JM KAMAU, J**

**OCTOBER 9, 2025**

**BETWEEN**

**LAWRENCE MWANGI & OTHERS ..... PLAINTIFF**

**AND**

**FRANCIS NDEGWA MURIUKI & ANOR ..... DEFENDANT**

**RULING**

1. In the Plaintiff's Application dated 27/3/2025, he seeks an injunction to restrain the Defendants from selling, transferring, leasing, sub-dividing, alienating or in any other way from interfering with L.R No's Konyu.baricho/1348 and 1349 pending the determination of this suit. He also seeks a second substantive order directing the Defendants to maintain the Status Quo in respect of the said parcel of land.
2. In their grounds on which the Application is based as well as the Supporting Affidavit by the 1<sup>st</sup> Plaintiff, the Applicants aver that they are the legal Administrators of the Estate of Ngatia Mithamo alias Joseph Ngatia Karugu which was initially L.R Konyu/baricho 22 held in trust by the late Muriuki Mithamo on behalf of Ngatia Mithamo and Gatimu Mithamo.
3. The claim that the Defendants have unlawfully started to distribute the entire suit property amongst themselves to the exclusion of the Plaintiffs. The 1<sup>st</sup> Plaintiff, Lawrence Ndegwa Muriuki depones that the suit land was a family land inherited by 3 brothers, John Muriuki, Mithamo Gatimu and Ngatia Mithamo who are now deceased and which they got from their deceased parents. The land was first registered in the name of the firstborn, John Muriuki Mithamo on or about 11/7/1958. When the land was sub-divided on 21/11/1980 into Konyu/baricho/1348 (0.18) in the name of Gatimu Mithamo and Konyu/baricho/1349 in the name of Muriuki Mithamo, one Ngatia Mithamo was excluded.
4. The Defendants now intend to distribute the land amongst themselves. The 1<sup>st</sup> Plaintiff claims that his late father, Ngatia Mithamo was actually buried on Konyu/baricho/1349.



5. In his Replying Affidavit, the 1<sup>st</sup> Defendant, Francis Ndegwa Muriuki depones that the Plaintiffs lack the locus to sue the Defendants since they did not attach the letters of Administration in respect of the estate of Ngatia Mithamo which Grant (limited) they later attached to their Supplementary Affidavit sworn on the 26/6/2025. He depones that his family and that of James Gatimu Mithamo have been on their respective parcels of land Konyu/baricho/1349 and 1348 for over 50 years as beneficiaries of the 2 deceased fathers.
6. He further depones that the Plaintiffs have failed to disclose that there is Nanyuki C.M Succession Cause No E057 of 2024 relating to the estate of John Muriuki Mithamo where this claim should have been raised since they are protestors therein which has been explained in the supporting Affidavit therein and that the Plaintiffs have never been in occupation of the 2 parcels of land and if the orders sought herein are granted, they will amount to final orders without the issue of trust not being heard.
7. The 1<sup>st</sup> Plaintiff in the Supplementary Affidavit has stated that what the Plaintiffs are seeking is to preserve the suit properties hence the Application.
8. I directed the parties to file their written submissions and they obliged.
9. Besides the conditions set out in the case of Giella -vs Cassman Brown which the Plaintiff has been able to demonstrate particularly conditions No's 2 and 3, that there is a likelihood of the Plaintiffs suffering irreparable harm if the injunction is not granted to enable the preservation of the suit land and that the balance of convenience tilts in favour of granting the injunction, there is the other fundamental issue raised by the Defendant which is that there is a Succession Cause No. E057 OF 2024 in Nyanyuki CM'S Court where property L.R No Konyu/baricho/1349 belonging to the 1<sup>st</sup> set of Defendants is a subject.
10. The Defendants aver that the issues raised herein should have been raised in that suit. I am persuaded that since the ownership of Konyu/baricho/1348 is not a subject of the said Succession Cause. I feel that it is only necessary that the ownership of the 2 parcels of land Konyu/baricho/1348 and 1349 be addressed together to avoid a situation where the Courts would end up in an embarrassing situation of arriving at 2 different Decisions in cases that are quite similar. But I leave this to the trial Court. At this stage, I find that the 2 parcels should be preserved, and I so order and direct that: -

Pending the hearing and determination of this suit, this court do hereby issue an interim injunction restraining the Defendants/Respondents from selling, transferring, leasing, subdividing, alienating or in any other way interfering with the parcels of land known as L.R Konyu/baricho/1348 and 1349 respectively.

**JUDGMENT DATED AND DELIVERED AT NYANDARUA VIRTUALLY THIS 9TH DAY OF OCTOBER 2025.**

**MUGO KAMAU**

**JUDGE**

In the Presence of: -

Court Assistant:

Plaintiff's Counsel – Mr. Maanzi.

Defendants' Counsel – Ms. Muchai.

