



Njoroge (As Legal Representative of the Estate of Darius Njoroge Kaime) v Land Registrar Narok (Environment and Land Case Judicial Review Application E002 of 2025) [2025] KEELC 7008 (KLR) (16 October 2025) (Judgment)

Neutral citation: [2025] KEELC 7008 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
ENVIRONMENT AND LAND CASE JUDICIAL REVIEW APPLICATION E002 OF 2025**

LN GACHERU, J

OCTOBER 16, 2025

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL
REVIEW BY JOHN MICHAEL KAIME NJOROE (SUING AS LEGAL
REPRESENTATIVES OF THE ESTATE OF DARIUS NJOROG
KAIME
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW ORDERS OF MANDAMUS**

AND

**IN THE MATTER OF THE LAW REFORM ACT CAP 26 OF THE LAWS OF KENYA
JOHN MICHAEL KAIME NJOROE**

BETWEEN

**JOHN MICHAEL KAIME NJOROE APPLICANT
AS LEGAL REPRESENTATIVE OF THE ESTATE OF DARIUS NJOROG
KAIME**

AND

LAND REGISTRAR NAROK RESPONDENT

JUDGMENT

1. The Exparte Applicant herein John Michael Kaime Njoroge (as the legal representative of the estate of Darius Njoroge Kaime) has brought this Judicial Review Application under Order 53 Rule 3 of the Civil Procedure Rules, Cap 21 Laws of Kenya, Sections 8 & 9 of the *Law Reform Act*, Cap 26 Laws of Kenya, and has sought for Judgement in the following terms;
 - i. An Order of mandamus to compel the Land Registrar Narok County to release title deed for plot No 3268 (old Plot No 6 Blok 80 within Narok Town, to the Applicant.



- ii. Costs of the Application be provided for.
2. This Judicial Review Application is premised on the Affidavit of Statement of Facts of Michael Kaime Njoroge, the Exparte Applicant herein, and the Statement of Facts attached to the said Affidavit.
 3. The Exparte Applicant has averred that the Respondent herein is mandated to among other things require any person to produce any instrument, certificate or other documents or plan relating to land, lease or charge in question and that the person shall produce the same. Further, he is mandated to refuse to proceed with any registration if any instrument certificate or other documents, plan, information or explanation required to be produced or given is withheld or any act required to be performed under this Act is not performed.
 4. He also averred that the Land Registrar is also obligated to do among other duties the following; if requested by a proprietor of land, or lease where no certificate of lease or title has been issued, issue to him or her a certificate of title or lease as the case may be in the prescribed form, showing all the subsisting entries in the register affecting that land or lease.
 5. It was his further averments that he is the legal representative of the estate of Darius Kaime Njoroge(deceased), who was the registered proprietor of Plot No. 3268, within Narok Town. He alleged that the said deceased was issued the suit land in 1977, and he immediately took possession of the said land.
 6. Further, that Plot No 3268, was originally known as Plot No 6 block 8, Narok town, and after survey and registration, it was allocated the current number.
 7. The Exparte Applicant further averred that sometime in 2019, the registered owner of Plots No 5 block 8 known as Peter Koriata was sued by the registered owner of Plot No 4 block 8 Narok town, one Kerimpuoti Ole Sadera vide ELC No.119/2011.
 8. Further, as a result of the said case, the court ordered the County Surveyor and County Physical Planner to visit the land and align the boundaries between Plots No 2,3,4,5,6,7 and 8 of block 8, Narok Township.
 9. It was his further averments, that the Reports of the two Government agents were adopted as the Order of the court, and a further order of implementation, compliance and execution of the said order was made. He thereafter commenced the process of obtaining the title deed for his father's plot to no avail.
 10. He alleged that he has visited the Narok Lands Registry requesting for the title deed, but the Land Registrar, has totally refused to release the same to him. As an administrator of the estate of his father, his right to preserve and safeguard the said estate is being denied by the Respondent.
 11. Further, that his right and that of his siblings whom he represents to utilise the said plot is being denied, and there is a risk that the plot could be alienated by the 3rd parties with the assistance of the 1st Respondent.
 12. Further, that the 1st Respondent is acting ultra vires his mandate as provided by the law. That his father's estate right to own and enjoy private property has been denied/trampled upon by the 1st Respondent.
 13. It was his further allegation that his father's estate right to have non-interference of his property has been deprived by the Respondent, and the refusal to release the title document to the Exparte Applicant is illegal, wrongful and unconstitutional.



14. He urged the court to issue an order of Mandamus to compel the 1st Respondent to release the Certificate of title deed/ lease to him to that he can secure his late father's estate and right to property.
15. In his Statement of Facts, the Exparte Applicant John Michael Kaime Njoroge, averred that he is the son of Darius Njoroge Kaime(deceased), and the legal representative of his late father's estate. He reiterated that his late father was the owner of the Plot No 3268(original plot No 6 Block 8), which he took possession of and fenced it, built some houses and started utilizing prior to his death.
16. However, the Land Registrar has refused to release the title deed/Lease to the Exparte Applicant, which action is against the law, and there is no reason proffered as why the Respondent should not release the said Certificate of title deed/Lease.
17. Therefore, the Exparte Applicant has sought for an Order of Judicial Review of Mandamus directed to the Respondent, Land Registrar Narok to compel him to release the title deed or Certificate of Lease for Plot No 32689 Original Plot No 6 block 8) Narok town.
18. The grounds for such prayer are; that the Narok Land Registrar has totally and adamantly refused to release the said title documents to the Exparte Applicant. Therefore, the Exparte applicant urged the court to allow the instant Judicial Review Application wholly as prayed.
19. The Respondent did not Enter Appearance, and or file any response to this Judicial Review Application. The said Judicial Review proceeded exparte.
20. In prosecution of his suit, the Exparte Applicant filed a Supplementary Affidavit dated 15th May 2025, wherein he filed several annexures, being annexures JMK2, JMK3, the consent order, JMK4, the County Surveyor Report, JMK5, the Court order, and JMK 6a, b, and c, the letter of allotment and JMKN 7, a bundle of receipts.
21. He reiterated that there is nothing pending except the release of the Certificate of title/Lease which should be released to the Exparte Applicant by the Land Registrar.
22. On 7th May 2025, the court directed the Exparte Applicant to canvass the Judicial Review Application by way of written submissions, and further serve the said submissions to the Respondent, and then file a proper Return of service.
23. Though the Exparte Applicant filed the written submissions, there was no Return of Service filed, and this court is not certain whether the Respondent was served with the written submissions.
24. Be that as it may, this court has considered the instant Judicial Review Application, which application is for orders of Mandamus to compel the Land Registrar to release the title deed/certificate of lease for Plot No 3268(Original plot No 6 Block 8) Narok Town to the Exparte applicant.
25. In his submissions, the Exparte Applicant relied on the case of R Vs Kenya National Examination Council Exparte Gathenji & Others (1997) eklr, where the Court of Appeal expounded on what an order of mandamus entails, and held among other findings that; An order of Mandamus will compel the performance of a public duty which is imposed on a person or body of persons by statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed.
26. It is trite that a Judicial Review Order of Mandamus is a court order that compels a public official, body, or corporation to perform a specific public duty that they are legally obligated to carry out. It is a remedy used when there is a failure to perform a public duty, and the applicant has a clear legal right to its performance.



27. Therefore, it is trite that Mandamus is a powerful tool to correct administrative delays and inaction and ensures that justice is done when a specific legal right lacks a specific legal remedy. See the case of
28. The Ex parte Applicant herein has alleged that the Land Registrar Narok has refused to release Certificate of title / lease for Plot No 3268(original plot no 6 Block 8) Narok town, which was owned by his late father Darius Njoroge Kaime. (deceased).
29. The Ex parte Applicant produced various documents, among a Grant of Letters of Administration Intestate to the estate of Darius Njoroge Kaime. He also produced receipts to show that Darius Njoroge Kaime had been invoiced to pay land rates arrears in 2016 and 2017, and he indeed paid ksh 317,400/= being payment for rate for Plot No 6 Block 8 Narok County.
30. However, there is no connection between this Plot No 6 Block 8 to Plot No. 3268, as alleged by the Ex parte Applicant. The Ex parte applicant talked about an annexed Map showing the suit property No. 3268, but this court has not seen such map. Some of the documents produced by the Ex parte Applicant are not legible, and they cannot be used to prove the allegations made herein by the Applicant.
31. Further, the Ex parte Applicant alleged that the Respondent has refused to release the title deed/ lease, and therefore the court should issue an order of Mandamus to compel the Land Registrar to release the said certificate of title/ lease.
32. It is trite that the condition for grant of such order are that, it must be shown that the public officer has failed to perform his duty; the court will not grant mandamus where there is alternative remedy available to the applicant; and that it may be refused if the enforcement of the order will pose implementation challenges that require the court's supervision. This was the holding in the case of Evanson Jidraph Kamau & Another vs the Attorney General Mombasa HC MISC APP NO.40 OF 2000.
33. Further, in the case of Republic vs The Commissioner of Lands & Another Ex parte Kithinji Murugu M' agree Nairibi HC Misc Application No. 395 of 2012, the court held that mandamus is employed to enforce the performance of public duty which is imperative , not optional or discretionary, with authority concerned; further, mandamus may be issued to enforce mandatory duty which may not necessarily be statutory duty, but which has a public element ,which may take any form.
34. The Court of Appeal in the case of Republic vs Kenya National Examination Council Ex parte Gathenji & Others(supra) explained the principles to be considered in an application for mandamus orders as follows;

“...The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right or no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual. The order must command no more than the party against whom the application is legally bound to perform. Where a general duty is imposed, a mandamus cannot require it to be done at once. Where a statute, which imposes a duty, leaves discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid, a mandamus cannot command the duty in question to be carried out in a specific way... These principles mean that an order of mandamus compel the



performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed. An order of mandamus compels the performance of a duty imposed by statute where the person or body on whom the duty is imposed fails or refuses to perform the same but if the complaint is that the duty has been wrongfully performed i.e. that the duty has not been performed according to the law, then mandamus is wrong remedy to apply for because, like an order of prohibition, an order of mandamus cannot quash what has already been done...Only an order of certiorari can quash a decision already made and an order of certiorari will issue if the decision is without jurisdiction or in excess of jurisdiction, or where the rules of natural justice are not complied with or for such like reasons. In the present appeal the respondents did not apply for an order of certiorari and that is all the court wants to say on that aspect of the matter. (with emphasis)

35. In Halsbury's Laws of England, 4th edition, volume 1 paragraph 89, the editors posit that the purpose of an order of mandamus is:

“...to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet the mode of redress is less convenient, beneficial and effectual.”
36. Though the Ex parte Applicant herein alleged that he had visited the office of the Land Registrar Narok and requested for release of the Certificate of title/ lease, there is no evidence of such request or visit. There is also no evidence that the Land Registrar refused to release the said title deed/ lease to enable this court compel him to carry on his duty.
37. As the court observed earlier, the Ex parte Applicant had alleged that Plot No 6 Block 8 Narok, that the Late Darius Njoroge Kaime, had paid for was now registered as Plot No. 3268, and the Land Registrar had refused to release the title deed/ lease even with persistent request from the Ex parte Applicant herein.
38. The Ex parte Applicant did not produce any evidence to link Plot No 6 Block 8 Narok town with Plot No 3268, which is now registered as alleged by him. There was no evidence to confirm that the ex parte applicant requested the said certificate of title/ lease, and the said request was rejected or refused by the Land Registrar.
39. It is not in doubt that the Orders of Judicial Review are issued when a public body has acted illegally, unreasonably, or in a procedurally improper way, and when a person has exhausted all internal appeal or review mechanisms, unless the court grants an exemption. Judicial Review is considered a remedy of last resort, which means a person must first try to resolve the issue through any available statutory procedures before going to court, unless there are exceptional circumstances. See the case of
40. There is no evidence availed by the Ex parte applicant that the Land Registrar has acted illegally, unreasonably or in an improper manner. The Ex parte Applicant has also not shown that he has exhausted all the internal mechanism for solving such an issue before coming to court for Judicial Review Application, which is a last resort.
41. Having considered the instant Judicial Review Application, the relevant provisions of law, and the cited authorities, this court finds the said Application is not merited, and for the above reasons, this court finds and holds that the Judicial Review Application herein is a candidate for dismissal.



42. Consequently, the court proceeds to dismiss this Judicial Review Application dated 10th July 2024, wholly, with no orders as to costs since the Respondent did not participate in the proceedings.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAROK THIS 16TH OCTOBER 2025.

L. GACHERU

JUDGE

Delivered online in the presence of

Elijah Meyoki - Court Assistant

Ms. Mwangi E.G. for Exparte Applicant

N/A for Respondent

16/10/2025

