



**Njeru v Mwaniki & 6 others (Environment and Land Case
54 of 2016) [2025] KEELC 6619 (KLR) (1 October 2025) (Judgment)**

Neutral citation: [2025] KEELC 6619 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT EMBU
ENVIRONMENT AND LAND CASE 54 OF 2016**

AK BOR, J

OCTOBER 1, 2025

BETWEEN

STEPHEN MBOGO NJERU PLAINTIFF

AND

MARGERY WAWIRA MWANIKI 1ST DEFENDANT

MERCY MUTHONI MWANIKI 2ND DEFENDANT

GRACE WEVETI MWANIKI 3RD DEFENDANT

LAWRENCE KARIUKI MWANIKI 4TH DEFENDANT

NAFTALI IRERI MWANIKI 5TH DEFENDANT

WINCATE MAITHA MBOGO 6TH DEFENDANT

NAOMI WANJA MWANIKI 7TH DEFENDANT

JUDGMENT

1. The Plaintiff filed suit on 16/8/2016 seeking a declaration that the land known as Ngandori/ Kirigi/11614 (the suit land) belonged to him. He sought a permanent injunction to restrain the Defendants, their agents, servants or anyone claiming through them from trespassing, encroaching, cultivating or in any way dealing with the suit land; He also sought mesne profits and damages for trespass and destruction of crops as well as the costs of the suit.
2. The Plaintiff's case is that on 11/8/2010, he entered into an agreement with the 1st and 2nd Defendants for the sale of 0.5 acre out of the suit land. He averred that he completed the sale and the land was registered in his name and a title deed issued to him. He stated that boundaries were fixed and he developed the suit land. He claimed that the Defendants forced their way into the land without any



- lawful excuse, destroyed the barbed wire on the boundaries, started cultivating his land causing him to stop utilizing the land and thereby denied him quiet possession of his land.
3. The Defendants entered appearance but did not file a defence. They did not file their documents despite being granted opportunities to do so. The 3rd and 5th Defendants died while the suit was pending in court. The Plaintiff withdrew the suit against the 3rd and 5th Defendants on 28/4/2021.
 4. The matter was set down for hearing on 14/7/2025. On that day, the Defendants appeared in court at 9.30 am and informed the court that their advocate was on his way to court. Later, when the matter was called out for hearing, the Defendants and their advocates were not in court. The hearing proceeded in their absence.
 5. At the hearing, the Plaintiff adopted his written statement and told the court that he purchased the suit land from 4th and 5th Defendants as the beneficiaries of the Estate of the late Bernard Mwaniki Muyambiri, who was the registered proprietor of the land. That thereafter, his family filed Succession Cause No. 434 of 2011 and he was granted 1 acre as agreed in the sale agreement having paid the full purchase price to the Defendants. A title deed was issued to him on 15/10/2014 following which beacons were fixed on the land and he took possession.
 6. He claimed that the other Defendants, who are sisters to the vendors, had trespassed on the suit land and cultivated it without his permission despite the fact that they witnessed the sale agreement. He was therefore unable to develop the land as they kept destroying the fence.
 7. The Plaintiff produced copies of the sale agreement dated 11/8/2010, the acknowledgement dated 29/8/2014 together with letters of administration issued in succession cause No. 434 of 2011 and the confirmed grant dated 7/3/2013. He also tendered copies of the title deed issued on 15/10/2014 and green card for Ngandori/Kirigi/11614, as well as copies of building plans, receipts and invoice. He produced photographs of building materials on the suit land, and the court order made on 28/7/2017.
 8. The Plaintiff's advocate opted not to file any written submissions and urged the court to make a determination based on the evidence and documents produced by the Plaintiff.
 9. The issue for determination is whether the Plaintiff's suit has merit. The Plaintiff demonstrated that he purchased Ngandori/Kirigi/11614, which originally formed part of Ngandori/Kirigi/1357 from the 4th and 5th Defendants. He produced copy of the sale agreement dated 11/8/2010 between Lawrence Kariuki Mwaniki and Naftali Ileri Mwaniki as vendors and himself as the purchaser. The agreement was for the sale of 0.5 acres out of land parcel 1357 being the vendors' share from the Estate of the late Bernard Mwaniki Muyambiri. The agreed purchase price was Kshs. 230,000/= which the vendors acknowledged receiving in full as shown by the acknowledgment dated 29/8/2014. The agreement was executed by the vendors and the purchaser in the presence of Joe Kathungu, Advocate and was witnessed by the 1st, 6th and 7th Defendants.
 10. The Plaintiff produced a second sale agreement dated 11/8/2010, which he entered into with Kenneth Muriithi Mwaniki as the vendor and a beneficiary of the Estate of Bernard Mwaniki Muyambiri for the sale of 0.5 acres out of Ngandori/Kirigi 1357. The agreed purchase price was Kshs. 230,000/= . The agreement was executed before Joe Kathungu, Advocate and was witnessed by the 1st, 6th and 7th Defendants.
 11. In addition, the Plaintiff produced a certificate of confirmation of grant relating to the Estate of the late Bernard Mwaniki Mwanambiri dated 7/3/2013 where the court notes that the Plaintiff is named as one of the beneficiaries entitled to 1 acre out of Ngandori/Kirigi/1357. He also produced a title deed over Ngandori/Kirigi/11614, which shows that he is the registered proprietor of the suit land.



Those documents which prove ownership of the suit land by the Plaintiff were not controverted by the Defendants. The court is persuaded that the Plaintiff is the lawful proprietor of the suit land having purchased it for valuable consideration.

12. The Defendants' entry into and cultivation of the suit land without the Plaintiff's consent amounts to trespass. A permanent injunction is issued to restrain the Defendants from interfering with the Plaintiff's quiet possession of Ngandori/Kirigi/11614. The Plaintiff did not provide evidence of any specific income lost, and therefore the claim for mesne profits therefore fails.
13. The Plaintiff's suit is allowed in terms of prayers (a) and (b) of the plaint, and the Plaintiff is awarded the costs of the suit.

DELIVERED VIRTUALLY AT EMBU THIS 1ST DAY OF OCTOBER 2025.

K. BOR

JUDGE

In the presence of: -

Mr. Joe Kathungu for the Plaintiff

Court Assistant- Diana Kemboi

No appearance for the Defendants

