



**Akuma v Ontita & another (Environment and Land Petition
20 of 2024) [2025] KEELC 7232 (KLR) (21 October 2025) (Judgment)**

Neutral citation: [2025] KEELC 7232 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISII
ENVIRONMENT AND LAND PETITION 20 OF 2024**

M SILA, J

OCTOBER 21, 2025

BETWEEN

JOSEPH MOSE AKUMA PETITIONER

AND

PASKARIA MOIGE ONTITA 1ST RESPONDENT

LAND REGISTRAR, KISII COUNTY 2ND RESPONDENT

JUDGMENT

1. This petition was filed on 29 November 2024. The petitioner contends to be the registered proprietor of the land parcel Central Kitutu/Mwamanwa/2718 (the suit land or simply parcel No. 2718). He avers that this land is a subdivision from the land parcel Central Kitutu/Mwamanwa/34 (hereinafter simply referred to as parcel No. 34) which was registered in the name of his late father, William Akuma (deceased). He avers that he filed Succession Cause No. 227 of 2000 in the High Court at Kisii after which he became registered as proprietor of the land parcel No. 34 through transmission in June 2001. He avers that the 1st respondent proceeded to file Kisii Succession Cause No. 209 of 2000, of which he was not a party, and obtained an order to have the land parcel No. 34 divided into two. He avers that through a letter addressed to court in May 2019, the 2nd respondent, alleged to have cancelled his title to the land parcel No. 2718 vide a court order issued in the Succession Cause No. 209 of 2000. He is aggrieved by the cancellation of his title by the Land Registrar and seeks to have a declaration that the cancellation of his title is null and void.
2. The 1st respondent filed a replying affidavit to oppose the petition. She deposed that she is daughter of Nicholas Nyangeri and Maria Kemunto Nyangeri (both deceased). She elaborated that Nicholas Nyangeri was a brother of William Akuma, the father of the petitioner. She deposed that her father (Nicholas) died before adjudication and that during adjudication, her mother (Maria) requested the adjudication committee to register the land of her father in name of William Akuma and the latter would hold that land in trust for her. She avers that the share of her father in the land parcel No. 34 was



3 acres. She acknowledges that she filed Kisii High Court Succession Cause No. 209 of 2000 in respect of the estate of the late William Akuma. She states that later she came to learn that the petitioner had subsequently filed Kisii High Court Succession Cause No. 227 of 2000 in respect of the same estate. She deposes that the petitioner filed an objection in Succession Cause No. 209 of 2000 and the dispute was referred to arbitration before the District Officer, Mosoch. She deposes that an award was made (the award was to effect that she deserves half the land parcel No. 34) and the same was adopted by the High Court. The petitioner was aggrieved and filed an appeal to the Court of Appeal, which appeal was dismissed. She deposes that she applied to consolidate the two succession causes which was allowed in a ruling delivered on 23 April 2020, and the grant of the petitioner revoked. She deposes that she has applied for execution of the order granting her half of the land parcel No. 34.

3. I directed the petition to be heard by way of written submissions and I have seen and taken note of the submissions filed by Mr. G.J.M Masese, learned counsel for the petitioner, and Mr. Momanyi Aunga, learned counsel for the 1st respondent.
4. The petitioner claims to be the registered proprietor of the land parcel No. 2718 and complains that the cancellation of his title by the Land Registrar is illegal. I am not persuaded.
5. What I see is that the petitioner and the 1st respondent had a succession dispute regarding the distribution of the estate of the late William Akuma, comprised in the land parcel No. 34. An award was made that the 1st respondent gets half the land. This award was adopted by the court on 18 July 2003. I observe that by this time, the petitioner had somehow caused himself to be registered as proprietor of the land parcel No. 34 though I have seen no evidence of a confirmed grant in his favour. Whatever the case, after a decision was made that the 1st respondent is entitled to half share of the parcel No. 34, which decision was affirmed by the Court of Appeal in its judgment of 29 July 2011, the petitioner now needed to subdivide the land parcel No.34 into two equal portions, with one portion to the 1st respondent. He however did not do this. Instead, on 15 February 2018, he purported to subdivide the land parcel No 34 into three portions, registered as parcels No. 2718, 2719, and 2720. He then transferred one portion, that is the land parcel No. 2718, to himself. It is this title that he claims was illegally cancelled by the Land Registrar.
6. The 1st respondent has annexed a ruling of Ougo J, delivered on 23 April 2020, in Kisii High Court, Succession Cause No. 209 of 2000, vide which the court ordered the Land Registrar to cancel the title of the petitioner which he obtained on 12 June 2001, and further ordered the reinstatement of the land parcel No. 34 in name of William Akuma. This order effectively nullified the title of the petitioner to the land parcel No. 2718 as the land could not revert back to the parcel No. 34 without a nullification of the subdivisions thereto. The 1st respondent has also annexed another ruling of the High Court, dated 26 November 2024, wherein the High Court (Odera J) made orders to execute its decree to subdivide the land parcel No. 34 into two portions.
7. What the foregoing means that the petitioner cannot purport to hold any title to the land parcel Central Kitutu/Mwamanwa/2718. Such title does not exist. It was nullified by the order of the High Court made on 23 April 2020.
8. I do not see how the petitioner can now come to court seeking protection over a title that does not exist and was ordered nullified by an order of the High Court. In light of that it is moot for me to determine whether the Land Registrar was wrong to act in the manner that he did.
9. The long and short of it is that there is no substance in this petition and it is hereby dismissed with costs to the respondents.
10. Orders accordingly.



DATED AND DELIVERED THIS 21 DAY OF OCTOBER 2025

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

AT KISII

Delivered in presence of :

Mr. G.J.M Masese for the petitioner

Mr. Momanyi Aunga for the 1st respondent

Mr. Denis Wabwire, State Counsel, for the 2nd respondent

Court Assistant – Michael Oyuko

