



Ciamutegi & 2 others v Njoka & another (Environment and Land Miscellaneous Application E014 of 2025) [2025] KEELC 7487 (KLR) (31 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7487 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E014 OF 2025
BM EBOSO, J
OCTOBER 31, 2025**

BETWEEN

**JOSPINE CIAMUTEGI 1ST APPLICANT
MURITHI MUTEGI 2ND APPLICANT
MUNYUA MUTEGI 3RD APPLICANT**

AND

**AGRIVINE KABURI NJOKA 1ST RESPONDENT
IDAH MUTHONI KIBAARA 2ND RESPONDENT**

RULING

1. This miscellaneous application was initiated through a notice of motion dated 22/7/2025. Through the application, the applicants sought the following verbatim orders from this court:
 - “1. That this application be certified as urgent requiring to be placed before the Learned Judge soonest and ex-parte orders do issue in terms of prayer 2 and 3.
 2. That this Honourable Court be pleased to issue an order for stay of proceedings in Chuka Chief Magistrate ELC Case E035 of 2021 slated for hearing on 8th September, 2025 pending inter-parties hearing and determination of this application and the appeal Nyeri Civil Appeal E048 of 2023.
 3. That this Honourable Court be pleased of temporary injunction pending the hearing and determination of the Nyeri Civil Appeal E048 of 2023 (sic).
 4. That this Honourable Court be pleased to issue an order for status quo to conserve parcel of land L.R Karingani/Muiru/145.



5. That costs of this application be provided for.”
2. The said application is the subject of this ruling. The application is premised on the grounds outlined in the motion and in the supporting affidavit sworn on 22/7/2025 by Josephine Muiro Mutegi. It was canvassed through written submissions dated 6/10/2025, filed by M/s Musyimi Damaris & Co Advocates.
3. The case of the applicants is that, land parcel number Karingani/Muiro/145, measuring 0.9 hectares, belonged to the late Murungi Rutere (the deceased) who died intestate on 16/5/1992. Vide a judgment rendered on 24/6/2020 by the High Court at Chuka (Limo J) in Misc Succession Cause No 52 of 2018, Agrivine Kaburu Njoka (the 1st respondent) was appointed as the administratrix of the deceased’s estate. Subsequent to that, the High Court at Chuka (Gitari J), vide a ruling dated 22/7/2021, confirmed the Grant and vested the suit land in the 1st respondent as the sole beneficiary of the estate of the deceased. The suit land was registered in the name of the 1st respondent and the 1st respondent subsequently transferred the suit land to the 2nd respondent.
4. The applicants add that, aggrieved by the ruling of the High Court (Gitari J) rendered on 22/7/2021 in Chuka High Court Misc Succession Cause No 52 of 2018, the 1st applicant challenged the said ruling in the Court of Appeal at Nyeri through Civil Appeal No E048 of 2023. The said appeal is pending hearing and determination by the Court of Appeal.
5. The applicants state that the respondents filed Chuka CMC E&L Case No E035 of 2021 seeking eviction and injunction orders against them. They add that if the said case in the Chief Magistrate Court proceeds and is disposed, it will render their Civil Appeal No E048 of 2023 in the Court of Appeal at Nyeri academic and nugatory. They urge this court to grant them the orders sought in the application.
6. The respondents opposed the application through a replying affidavit sworn on 11/8/2025 by Agrivine Kaburu Njoka and written submissions dated 28/10/2025, filed by M/s Kiautha Arithi & Co Advocates. The case of the respondents is that the application is fatally defective and untenable both in law and facts. The respondents add that the suit land having been vested in the 1st respondent by a succession court, she legitimately moved the Chief Magistrate Court for eviction and injunctive orders vide Chuka CMC E & L Case No E035 of 2021. They state that the 1st respondent legitimately transferred the suit land to her daughter (the 2nd respondent)
7. The respondents point out that the appeal in the Court of Appeal at Nyeri challenges the ruling of the High Court rendered in a succession cause. They further point out that the present application is fatally defective because it is a miscellaneous application seeking to stay proceedings in the Chief Magistrate Court. They further point out that the applicants made a similar application in the Court of Appeal and upon the Court of Appeal noting that the application was incompetent because it did not have jurisdiction to entertain the application, the applicant withdrew the application under rule 98 of the Court of Appeal Rules. They accuse the applicants of engaging in forum-shopping. They urge the court to reject the application.
8. The court has considered the application, the response to the application, and the parties’ respective submissions. The court has also considered the relevant legal frameworks and jurisprudence. The following are the issues that fall for determination in this ruling: (i) Whether, through this miscellaneous application, this court has jurisdiction to entertain the plea for an order staying proceedings in Chuka CMC E & L Case No E035 of 2021 pending the hearing and determination of Civil Appeal No E048 of 2023 in the Court of Appeal at Nyeri; (ii) Whether, through this miscellaneous application, this court has jurisdiction to entertain the plea for an order of temporary



injunction pending the hearing and determination of Civil Appeal No E048 of 2023 in the Court of Appeal at Nyeri; (iii) Whether, through this miscellaneous application, this court has jurisdiction to issue an order of status quo to conserve the suit land pending nothing; and (iv) Whether the applicants have made out cases for the reliefs that are sought in the application. I will be brief in my sequential analysis and disposal of the issues.

9. First, what is before this court is a miscellaneous application initiated through a notice of motion dated 22/7/2025. This court is not seized of any appeal against a decision rendered in Chuka CMC E & L Case No E035 of 2021. Secondly, under the law, this court has no jurisdiction to deal with succession disputes. The ruling giving rise to Civil Appeal No. E048 of 2023 in the Court of Appeal at Nyeri was rendered by the High Court exercising jurisdiction as a succession court.
10. In the absence of any appeal emanating from Chuka CMC E&L Case No E035 of 2021, and in the absence of a substantive suit relating to the subject matter, this court does not have jurisdiction to entertain the plea for an order staying proceedings in the said court. An order of stay of proceedings is an interlocutory relief that is issued by a court that is seized of a substantive cause. This court is not seized of any substantive cause, original or appellate. For this reason, the court has no jurisdiction to entertain the plea for an order of stay of proceedings in Chuka CMC E & L Case No E035 of 2021 pending the hearing and determination of a succession dispute that is pending in the Court of Appeal at Nyeri.
11. Does this court have jurisdiction to entertain the plea for an order of temporary injunction pending the hearing and determination of a succession dispute in the Court of Appeal? The decision that is the subject of the appeal in the Court of Appeal at Nyeri emanated from the High Court exercising jurisdiction as a succession court. The Environment and Land Court has neither a substantive appeal nor an original suit before it relating to the appeal that is pending in the Court of Appeal. The appeal did not emanate from an order of this court. Clearly the Environment and Land Court has nothing to anchor the interlocutory injunction on. Even if the impugned decision had emanated from this court, I doubt that this court would have jurisdiction to issue a post judgment temporary injunction. The court has no jurisdiction to entertain the plea for temporary injunction.
12. Does this court have jurisdiction to grant a status quo order pending nothing? What is before court is a miscellaneous application. Once the miscellaneous application is disposed, this court will become functus officio. Yet the applicants want to procure an infinite status quo order that is anchored on nothing. Clearly, the court has no jurisdiction to entertain a plea of that nature.
13. Our courts have umpteen times emphasized that a court’s jurisdiction flows from either the Constitution or the statute or both. The Supreme Court outlined this principle succinctly in Samuel Kamau Machari & Another v Kenya Commercial Bank Limited & others (2012) eKLR as follows:

“ A court’s jurisdiction flows from either the Constitution or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law.”
14. In Owners of the Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd [1989] eKLR, the Court of Appeal emphasized the centrality of jurisdiction in the following words:

“With that I return to the issue of jurisdiction and to the words of Section 20 (2) (m) of the 1981 Act. I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matter is then obliged to decide the issue right away on the material before it. Jurisdiction is everything. Without it, a court



has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law down tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”

15. The court having made a finding that it does not have jurisdiction to entertain the first three issues in this application, it will down its tools. It will do so by striking out this miscellaneous application without venturing into the last limb of the issues.
16. On costs, the general principle is that costs follow the event. There are no proper grounds to warrant a departure from the general principle. Consequently, the applicants will bear costs of the miscellaneous application.
17. In the end, this suit is struck out for want of jurisdiction on part of this court. The applicants shall bear costs of the suit.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 31ST DAY OF OCTOBER, 2025.

B M EBOSO [MR]

JUDGE

In the Presence of:

Ms. Damaris Musyimi Advocate for the Applicants.

Ms. Mutema for the Respondents

Court Assistant – Mr. Mwangi

