



**Gathoni & 3 others v Macharia (Environment and Land Case
21B of 2023) [2025] KEELC 7155 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7155 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYERI
ENVIRONMENT AND LAND CASE 21B OF 2023**

**JM KAMAU, J
OCTOBER 23, 2025**

BETWEEN

SPRANZA GATHONI & 3 OTHERS PLAINTIFF

AND

GEORGE MUNENE MACHARIA DEFENDANT

RULING

1. On 23/1/1997, this Court was faced with prayers that led parcel No. Magutu/Ragati/364 be subdivided in equal shares between the Plaintiffs and the Defendant. The Court decreed through a consent Judgment that the elders' award filed in court be adopted and entered on the Judgement of the Court.
2. The above parcel of land, according to the Court Judgment was to be shared in 5 equal shares between the 4 Plaintiffs and the Defendant. The said parcel of land was 1.82 Hectares, about 4.5. Acres or thereabout, meaning that each one of them was to get approximately 0.9 Acres. Each party was to bear its own costs. Earlier on, the Honourable Court on 31/10/2023 dismissed an Application which sought inter alia to set aside, review and/or vary the Court Order of 23/1/1997 adopting the elders' award of 29/10/1993. The Court in striking it out observed that the same was not tenable.
3. The elders' award Order therefore is still subsisting. The elders' award that was confirmed by this Court reads as follows:-

In the absence of a Defence.

- a. The shamba belonged to the husband of the first claimant i.e. Spranga Gathoni Macharia.
- b. The succession done in 1978 omitted her illegally because she had a right over the land.
- c. All the children thus the second, third and fourth claimants were born at the time of succession and therefore had a right to the land.



4. In the Application dated 26/11/2024 asking this Court to issue a Declaration that the Plaintiffs are barred under Section 4 (4) of the Limitation of Actions Act, Cap 22 Laws of Kenya from executing or benefitting from the Judgment of this Honourable Court of 23/1/1997 after the statutory period of 12 years lapsed on or about 24/1/2009 was struck out on 31/10/2023. No Appeal was preferred in as far as records herein are concerned.
5. The 3rd Plaintiff on behalf of and with written authority from his co-plaintiffs swore an affidavit on 26/11/2024 deponing that the Defendant has refused and/or failed to discharge the charge and produce his Identity Card for purposes of executing the sub-divisions and transfer of the parcel of land known as Magutu/Ragati/364 amongst the 5 parties in this case.
6. He claims that the Defendant has also failed to produce and execute subsequent documents necessary to facilitate the distribution of the aforesaid parcel of land to its respective beneficiaries in conformity with the Court Order and Decree issued on 17/2/2022. He has also withheld the Title deed .
There was no response to this Application.
7. This is an old matter which was decided by the elders on 8th October 1993 and which award came to Court on 23/1/1995 and was adopted by consent in Court on 23/1/1997 and it is not clear why it has taken so long to execute. Maybe, as the Plaintiffs claim, it may be because of the difficulties and stubbornness brought about by the Defendant.
8. Since the distribution of the parcel of land was by consent, the Orders sought for herein cannot be prejudicial to the Defendant who has failed to respond to the Court Application and explain why he has refused to co-operate and bring this very old matter to an end.
9. Consequently, I grant the Orders as prayed for in the Application dated 26/11/2024 as follows:-
 1. This Court authorizes the Deputy Registrar of this Court to sign all the relevant documents on behalf of the Defendant necessary to enable the Plaintiff and the Defendant to be registered as the proprietors of land parcel No Magutu/Ragati/364 in order to give effect to the Decree/ Consent Order recorded in this Court on 23/1/1997 and issued on 17/2/2022.
 2. The Land Registrar is hereby ordered to dispense with the production of the Defendant's (George Munene Macharia's) identification documents as well as the original Title Deed.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NYANDARUA THIS 23RD DAY OF OCTOBER 2025.

HON. MUGO KAMAU

JUDGE

In the presence of:

C/A Samson.

Dadson Muriuki Macharia.....3rd Plaintiff.

Ms Towett.....for the Defendant.

