



REPUBLIC OF KENYA



**Karanja v Isaac & 6 others (Environment and Land Case 28 of 2022)  
[2025] KEELC 8013 (KLR) (18 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8013 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
ENVIRONMENT AND LAND CASE 28 OF 2022  
MN GICHERU, J  
NOVEMBER 18, 2025**

**BETWEEN**

**HILDA MWIHAKI KARANJA ..... PLAINTIFF**

**AND**

**GEOFFREY MWANGI ISAAC ..... 1<sup>ST</sup> DEFENDANT**

**DISTRICT LAND REGISTRAR MURANG'A ..... 2<sup>ND</sup> DEFENDANT**

**DISTRICT SURVEYOR ..... 3<sup>RD</sup> DEFENDANT**

**THE HON ATTORNEY-GENRAL ..... 4<sup>TH</sup> DEFENDANT**

**JAMES KARANJA WAITHAKA ..... 5<sup>TH</sup> DEFENDANT**

**JOHN WAITHIRA GITAU ..... 6<sup>TH</sup> DEFENDANT**

**ANTHONY NJUGUNA MWANGI ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

1. This ruling is on the notice of motion dated 18-6-2025. The Motion which is brought under Rules 44(1), 45(1) and 49 of the Court of Appeal Rules, Section 3A and 3B of the [Appellate Jurisdiction Act](#) and all other enabling provisions of the law seeks the following residual orders.
3. A temporary injunction be issued restraining the Respondents, their agents and or servants from trespassing, encroaching, developing, occupying, selling, transferring and/or in any manner interfering with title No. Makuyu/Kimorori/Block IV/384 which was subsequently subdivided into the following title numbers, Makuyu/Kimorori/Block IV/2294, 2295, 2296, 2297, 2298, 2299, 2300,2301,2302 and 2303, pending the hearing and determination of the appeal.



4. That this Court be pleased to stay execution of the judgment delivered on 29-1-2025 pending the hearing and determination of the appeal.
  5. Any other or further relief as this Court may deem fit and just to grant.
  6. That the costs of this application be provided for.
2. The motion is based on ten(10) grounds and is supported by the affidavit of the Appellant, Hilda Mwihaki Karanja dated 18-6-2025. In summary, the motion posits as follows. Firstly, the Appellant is the rightful owner of the original property known as Makuyu/Kimorori/Block IV/144 which measures 10.0 acres and she has been in occupation since the year 1981. Secondly, in the year 2021, the 1<sup>st</sup> Respondent fraudulently hived off a portion of 5 acres of the Applicant's land in a clandestine manner and was issued with a title deed for it and it was renamed Makuyu/Kimorori/Block IV/384 which was subsequently subdivided into parcels numbers 2294-2303. Thirdly, after acquiring the fraudulent title, the 1<sup>st</sup> Respondent trespassed into the Applicant's land and destroyed all her crops and structures. The 1<sup>st</sup> Respondent is now selling the ten(10) parcels to innocent purchasers and in the event that this appeal is successful, this matter will be very convoluted. Fourthly, on 29-1-2025, this court dismissed the Appellant's suit and allowed the 1<sup>st</sup> Respondent's counter claim hence the appeal to the Court of Appeal. Fifthly, this application seeks to preserve the parcels numbers Block IV/2294-2303. Sixthly, unless the orders sought herein are granted, the Applicant will suffer irreparable loss and harm due to the continued selling and damage which will result to change of form of the suit property. For the above and other reasons, the Applicant prays for the orders.
3. The motion is opposed by the 1<sup>st</sup> Respondent who has sworn a replying affidavit dated 24-7-2025 in which he replies as follows. One, he is the registered owner of L.R. No. Makuyu/Kimorori/Block IV/384 for which he was issued with a title deed in 1-3-1989 while the Plaintiff's title deed for L.R. No. 144 was issued on 8-11-2000. Two, this Court made a finding that the two parcels are separate and the only problem is a boundary dispute which the Court referred to the Land Registrar which order the Applicant has defied. Three, in June 2021, in full glance and knowledge of the Applicant, L.R. No. 384 was subdivided into parcels Nos. 2294-2303 and this did not interfere with the Plaintiff's land which remained untouched. Four, at the time of the hearing of the suit, the 1<sup>st</sup> Defendant's parcel had already been subdivided into then(10) parcels and L.R. No. 384 is now non –existent. Five, in the light of the above, the prayers for injunction are misplaced and are overtaken by events because even before judgment was delivered on 29-1-2025 the subdivisions had been disposed off to third parties. Six, there is no proof that an appeal has been filed within the 60 days required by law. Finally, it would be unfair to injunct 3<sup>rd</sup> parties who are not parties in this case. For the above and other reasons, the 1<sup>st</sup> Defendant prays for the dismissal of the motion dated 18-6-2025.
4. I have carefully considered the application in its entirety including the affidavits, the grounds, the submissions and the issues raised therein.
- I find that the following issues arise.
- i. Whether the Court of Appeal Rules apply in this case.
  - ii. Whether litigation is over in this Court.
  - iii. Whether land sold to 3<sup>rd</sup> parties is recoverable.
  - iv. Whether an order of injunction should issue in all the circumstances of this case.



5. Regarding the 1<sup>st</sup> issue, I find that the Court of Appeal Rules cited in the motion do not apply in this case. This is because Section 19(2) of the Environment and *Land Control Act* provides that this Court shall be bound by the procedure laid down in *Civil Procedure Act*.

“(2) The Court shall be bound by the procedure land down in the *Civil Procedure Act*.”

The *Civil Procedure Act* provides as follows in Section 1(2).

“This Act applies to proceedings in the High Court and, subject to the Magistrate’s Courts Act, to proceedings in Subordinate Courts.”

It is clear from the two provisions above that the Court of Appeal Rules have no application in this case.

6. As for the second issue, I find that litigation is not over in this Court because in the judgment dated 29-1-2025, the Court ordered that the dispute be resolved by the Land Registrar who was to file a report within 60 days. This means that litigation is still pending in this Court.

7. Looking at the third issue, I find that it is within the power of this Court to order recovery of any land found to be unlawfully acquired by dint of Article 40(6) of *the Constitution*. It provides as follows.

“(6) The rights under this Article do not extend to any property that has been found to have been unlawfully acquired.”

8. On the final issue, I find that an order of injunction should issue in all the circumstances of this case because the substratum of the suit should remain as litigation proceeds. It is not proper that property that is the subject of active litigation should be alienated and dealt with before the Court has given its final orders. The balance of convenience tilts in favour of the status quo being maintained until the Court gives its final verdict.

9. For the above stated reasons, I find merit in prayer 3 of the notice of motion dated 18-6-25 which I allow as prayed. Costs in the cause.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG’A THIS 18<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**M.N. GICHERU**

**JUDGE.**

Delivered online in the presence of ;-

Mwangi Njonjo - Court Assistant

Plaintiff’s Counsel - Mrs Kariuki

1<sup>st</sup> Defendant’s Counsel - Mr Kimani

2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendant’s Counsel – Miss Ngaati

