



Kangatta Properties Limited v Kagotho & 3 others (Environment and Land Case E192 of 2024) [2025] KEELC 7655 (KLR) (7 November 2025) (Ruling)

Neutral citation: [2025] KEELC 7655 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E192 OF 2024
CG MBOGO, J
NOVEMBER 7, 2025**

BETWEEN

KANGATTA PROPERTIES LIMITED PLAINTIFF

AND

PETER KAGOTHO 1ST DEFENDANT

JENNIFER MUNJIRU KARANJA 2ND DEFENDANT

THE CHIEF LAND REGISTRAR 3RD DEFENDANT

ESHRAQ LIMITED 4TH DEFENDANT

RULING

1. When I retired to consider the preliminary objection that was coming up for ruling and upon careful perusal of the court records, it was noted as follows:-
 - i. The plaintiff filed the notice of motion dated 13th May, 2024 under a certificate of urgency.
 - ii. The 4th defendant filed the notice of preliminary objection dated 24th May, 2024 challenging the plaint dated 14th May, 2024 on the following grounds:-
 1. That this court lacks the requisite jurisdiction to hear and determine this suit on the grounds that this matter is res judicata. Section 7 of the *Civil Procedure Act* is categorical that no court shall try any suit or issue in which the matter directly and substantially in issue in a former suit between the same parties touching on the same issues.
 2. That the basis of the cause of action as alleged by the plaintiff consists of proceedings pending in ELC Case No. E059 of 2023, Kangatta Properties Limited v Peter Kagotho, Jenipher Munjuri Karanja & others.



3. That similar proceedings had been brought at the Milimani Commercial Magistrates Court in MCCCE48432023, Fredrick Kimemia Kimani versus Jeniffer Munjuri Karanja and others.
 4. That the said suit is res judicata, incurable and should be dismissed with costs.
 - iii. From the court record, when this matter came up on 27th May, 2024 the court directed that the application and the preliminary objection shall be heard and disposed simultaneously. The court further directed that the same be canvassed by way of written submissions.
 - iv. In a ruling delivered by the court on 29th July, 2024, the issues in both the application and the preliminary objection to wit; res judicata owing to ELC No. E059 of 2023 were addressed. See paragraphs 16, 17, 22, 23, 33, 40 - 49 of the ruling.
2. From the above, and looking at the ruling delivered on 29th July, 2024, I do concur with the observations made by Ms Waweru for the plaintiff on 24th June, 2025. There is no preliminary objection to be determined by this court at this stage, as the same has already been dealt with in the said ruling. The court cannot therefore entertain the same, as it would be a waste of the precious judicial time.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY

THIS 7TH DAY OF NOVEMBER, 2025.

HON. MBOGO C.G.

JUDGE

07112025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Kariuki for the 4th Defendant Applicant

No appearance for the Plaintiff

