



Mukururo & another (Suing on Behalf of the Estate of Jeremiah Mukururu Mucheru) v County Government of Nakuru & 3 others (Environment and Land Case E017 of 2023) [2025] KEELC 8001 (KLR) (19 November 2025) (Ruling)

Neutral citation: [2025] KEELC 8001 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND CASE E017 OF 2023
MAO ODENY, J
NOVEMBER 19, 2025**

BETWEEN

**CHARLES MUCHERU MUKURURO 1ST PLAINTIFF
NDIKIRA MUTHONI MUKULULO 2ND PLAINTIFF
SUING ON BEHALF OF THE ESTATE OF JEREMIAH MUKURURU
MUCHERU**

AND

**COUNTY GOVERNMENT OF NAKURU 1ST DEFENDANT
LAND REGISTRAR NAKURU 2ND DEFENDANT
JOSEPHAT NDERITU 3RD DEFENDANT
BAVUNI MUGUATHI WATER PROJECT 4TH DEFENDANT**

RULING

1. This ruling is in respect of the 3rd Defendant/Applicant's Notice of Motion application dated 1st September 2025, which seeks the following orders:
 - a. Spent
 - b. Spent
 - c. That the Honourable Court, upon granting the Applicant the prayer sought under (2) above, it further be pleased to issue orders allowing the Applicant to enter into the suit parcel of land, Dundori Mugwathi Block 1/640, for the sole and limited purpose of retrieving and relocating its borehole installations, equipment and materials to an alternative identified site.



- d. That this Honourable Court be pleased to further direct the area Officer Commanding Station (OCS) to oversee the entry and retrieval of the borehole materials.
 - e. That this Honourable Court be pleased to issue any other order it deems fit, just and expedient in the circumstances.
2. The application is supported by the annexed affidavit of Geoffrey Warui Karanja, the Chairperson of the 3rd Defendant/Applicant sworn on 1st September, 2025, and deponed that the Honourable Court pronounced itself vide a Judgment dated 10th July 2025, wherein it directed inter alia that the Defendants should not interfere with the suit parcel of land, Dundori Mugwathi Block 1/640. He further deponed that the 3rd Defendant in seeking to comply with the decision of the Honourable Court now seeks to vacate the suit parcel of land and relocate the borehole project to a new and identified parcel of land.
 3. The Chairperson of the 3rd Defendant also stated that to facilitate the said relocation, the Applicant has to access the suit parcel of land to retrieve the borehole installations, equipment and related materials.
 4. Charles Mucheru Mukururo, the 1st Plaintiff filed a Replying Affidavit sworn on 2nd October, 2025, and deponed that they stand to suffer if the smooth running of activities is interfered with in the suit land. Further that the Applicants have not filed any document to show what they are claiming. It was his deposition that the process was aimed at embezzling tax payers' money and urged the court to strike out the application with costs.

3rd Defendant/Applicant's Submissions

5. Mr. Kimotho, counsel for the 3rd Defendant filed submissions dated 27th October, 2025, and submitted that the Applicant is the owner of the borehole installations in the suit parcel of land and it is on this basis that the Respondents instituted a suit against them. Counsel relied on Article 43 of *the Constitution* of Kenya and submitted that the borehole installations remain the property of the 3rd Defendant/APplicant who seeks limited access to enter into the suit parcel and retrieve them.
6. Additionally counsel, submitted that granting the orders sought will amount to balancing the interests of the parties, as it will ensure that the court orders are implemented without occasioning undue hardship.

1st Plaintiff's Submissions

7. Charles Mucheru Mukururo, the 1st Plaintiff filed submissions dated 23rd October, 2025, and prayed that an expert report ought to be filed first by geologists, water engineers and agricultural experts to inform the court on the environmental impacts of removing the borehole.
8. The 1st Plaintiff further, submitted that a report is crucial given that there are deep cracks occurring in the Rift Valley and if the process is not properly done, it can lead to adverse effects like the Solai Dam tragedy where many lives were lost and the eco-system damaged. The 1st Plaintiff prayed for a ruling that would be favorable to the 2nd Plaintiff.

Analysis and Determination

9. The issue for determination is whether the court should allow the 3rd Defendant/Applicant to enter into the suit parcel of land, Dundori Mugwathi Block 1/640, for the purpose of retrieving and relocating its borehole installations, equipment and materials to an alternative identified site.



10. This court delivered a Judgment dated 10th July 2025, in favour of the Plaintiffs to the effect that they are entitled to the cancellation of the subdivision in relation to the parcel of land known as Dundori/ Muguathi Block 1/1640 Wanyororo A and the Defendants were restrained from interfering with the suit land.
11. This application has been brought pursuant to the implementation or adherence to the orders of the court. The 3rd Defendant is a Community Water Project which drilled the Borehole with the help of the County Government of Nakuru to help alleviate the water problem in the area.
12. It is also not in dispute that the boreholes were installed by the 3rd Defendant. In the further amended plaint dated 11th October, 2024, the Plaintiffs stated that on or about 20th December, 2014, the 1st, 3rd and 4th Defendants entered the suit land and started a water project with the Plaintiff's consent.
13. The Plaintiff is not opposed to the removal of the borehole installations, but his main concern is the environmental impact of the removal of the installations, which he fears might cause damage like what happened in the Solai dam case.
14. The borehole and the installations belong to the 3rd Defendant, which is public property and therefore the Plaintiffs cannot remain with their land as well as the 3rd Defendant's borehole. It would be in the interest of justice that the 3rd Defendant be allowed to remove its borehole and installations to another site of its choice to assist other community members.
15. I find that the application has merit and is hereby allowed as prayed with a rider that the removal of the borehole and the installations must be done professionally without causing any damage to the suit land. The cost of removal be borne by the 3rd Defendant.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 19TH DAY OF NOVEMBER 2025.

M. A. ODENY

JUDGE

