



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Mbuthia & 3 others v Land Registrar Kajiado County & 3 others (Petition E001 of 2023) [2025] KEELC 7922 (KLR) (13 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 7922 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KAJIADO**

**PETITION E001 OF 2023**

**LC KOMINGOI, J**

**NOVEMBER 13, 2025**

**IN THE MATTER OF ARTICLES 2, 3, 10, 19, 20, 21, 22, 23,  
24, 27, 28, 40, 47, 48, 50, 60, 61, 64, 73, 162, 232, 258 & 259**

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF  
THE RIGHTS AND FUNDAMENTAL FREEDOMS UNDER  
ARTICLES 40,47, & 50 OF THE CONSTITUTION OF KENYA 2010**

**IN THE MATTER OF AN APPLICATION SEEKING  
JUDICIAL REVIEW ORDERS OF MANDAMUS**

**AND**

**IN THE MATTER OF: THE CONSTITUTION OF KENYA, 2010**

**AND**

**IN THE MATTER OF VIOLATIONS OF SECTIONS 3,  
4 & 8 OF THE FAIR ADMINISTRATIVE ACT, 2015**

**AND**

**IN THE MATTER OF THE LAND ACT NO. 6 OF 2012  
AND THE LAND REGISTRARION ACT NO.3 OF 2012**

**IN THE MATTER OF: THE LAW REFORM ACT CAP 26 LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE SURVEY ACT, CAP 299 LAW OF KENYA**

**AND**

**IN THE MATTER OF: LAND REFERENCE NUMBERS KJD/KITENGELA/4580;  
KAJIADO/KITENGELA/4581 AND KJD/KITENGELA/17304**

**BETWEEN**

**JOHN MWANGI MBUTHIA.....1ST PETITIONER**

**JANE NDUATA MBUTHIA.....2ND PETITIONER**



GEORGE KAMAU MBUTHIA.....3RD PETITIONER  
MAGDALENE GATHONI MWANGI.....4TH PETITIONER

AND

LAND REGISTRAR KAJIADO COUNTY.....1ST RESPONDENT  
COUNTY SURVEYOR, KAJIADO COUNTY.....2ND RESPONDENT  
DIRECTOR SURVEY.....3RD RESPONDENT  
ATTORNEY GENERAL.....4TH RESPONDENT

BETWEEN

JOHN MWANGI MBUTHIA ..... 1<sup>ST</sup> PETITIONER  
JANE NDUTA ..... 2<sup>ND</sup> PETITIONER  
GEORGE KAMAU MBUTHIA ..... 3<sup>RD</sup> PETITIONER  
MAGDALENE GATHONI MWANGI ..... 4<sup>TH</sup> PETITIONER

AND

LAND REGISTRAR KAJIADO COUNTY ..... 1<sup>ST</sup> RESPONDENT  
COUNTY SURVEYOR, KAJIADO COUNTY ..... 2<sup>ND</sup> RESPONDENT  
DIRECTOR SURVEY ..... 3<sup>RD</sup> RESPONDENT  
ATTORNEY GENERAL ..... 4<sup>TH</sup> RESPONDENT

RULING

1. This Ruling is in respect of the Notice of Motion dated 21<sup>st</sup> May 2025 brought under;  

(Article 159 of *akn ke act 2010 constitution the Constitution* of Kenya, 2010; Sections 3A, 1A, 1B and 80; the *akn ke act 1924 3 Civil Procedure Act*; Order 45 Civil Procedure Rules and all other enabling provisions of the law)
2. It seeks orders that;
  - a. Spent.
  - b. The Judgment and Decree emanating therefrom delivered on the 5<sup>th</sup> day of December 2024 dismissing the Petition be and is hereby reviewed, set aside or varied.
  - c. The Court do issue any such further and appropriate orders in the circumstances of this matter as it deems fit.
  - d. That the costs of the Application be provided for.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 11.



4. The Application is supported by the affidavit of Jane Nduta Mbuthia, the 2<sup>nd</sup> Petitioner herein, sworn on the 21<sup>st</sup> May 2025.
5. The Application is not opposed.
6. The Notice of Motion is canvassed by way of written submissions.
7. I have considered the Notice of Motion, the Affidavit in support, the written submissions and the authorities cited. The issue for determination is whether this Application is merited.
8. Order 45 rule 1 of the Civil Procedure Rules provides that;

“(1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or (b) by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay.”

9. The Court of Appeal in *Marete & 2 Others Vs. Kinyua* (sued as the legal representative of the Estate of Patrick Kinyua Iringo (Deceased) (2025) KECA 1003 (KLR) held;

“.....In *National Bank of Kenya Limited Vs. Ndungu Njau* (1997) eKLR this court had this to say regarding a review arising from a mistake or error apparent on the face of the record;

“A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground to review that another judge could have taken a different view of the matter. Nor can it be a ground for review that the court proceeded on an incorrect-exposition of the law and reached on erroneous conclusion of law. Miscontinuing a statute or other provision of law cannot be a ground of review...”

10. I have considered the above provisions and authority respectively. I find that it is in the interest of justice that the judgement of 5<sup>th</sup> November 2024 be reviewed.
11. I am satisfied that there is an error apparent on the face of the record hence the need to review the said Judgement.
12. I find merit in this application and I grant the orders sought namely;
  - a. THAT the Judgment dated 5<sup>th</sup> November 2024 dismissing the petitioners suit is hereby reviewed and or set aside.



- b. THAT an Order of Mandamus is hereby granted directing the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to visit LR. NO. Kajiado Kitengela 4580, Kajiado Kitengela 4581 and Kajiado Kitengela 17304 in the presence of the Petitioners and prepare a report on the distinct demarcations and to affix the boundaries between each of the aforementioned parcels of land and the parcels of land adjoining them.
- c. THAT an order of Mandamus is hereby granted directing the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to survey the land parcels LR. NO. Kajiado Kitengela 4580, Kajiado Kitengela 4581 and Kajiado Kitengela 17304 provide the relevant mutation forms and to amend, rectify and update the Registry Index Map (RIM) to reflect the distinct demarcations of the affixed boundaries in respect to the said parcels.
- d. THAT the costs of this Application be borne by the Petitioners Applicants.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 13<sup>TH</sup> DAY OF NOVEMBER 2025.**

**L.KOMINGOI**

**JUDGE.**

In The Presence Of:

Mr. Kiptoo for Mr. Kiplangat for the Petitioners.

N A for the Respondents.

Court Assistant - Peter

