



REPUBLIC OF KENYA



**Mwito Housing Co-operative Society Limited v Ntayia & 3 others (Environment and Land Case E087 of 2025) [2025] KEELC 8210 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8210 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND CASE E087 OF 2025  
LC KOMINGOI, J  
NOVEMBER 27, 2025**

**BETWEEN**

**MWITO HOUSING CO-OPERATIVE SOCIETY LIMITED ..... PLAINTIFF**

**AND**

**ISAAC TUMPES NTAYIA ..... 1<sup>ST</sup> DEFENDANT**

**WILLIAM KIPKURUI NGENO ..... 2<sup>ND</sup> DEFENDANT**

**LAND REGISTRAR KAJIADO ..... 3<sup>RD</sup> DEFENDANT**

**ATTORNEY GENERAL OF THE REPUBLIC OF KENYA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This Ruling is in respect of the Notice of Motion dated 29<sup>th</sup> May 2025 brought under; Sections 3, 3a & 63 of the *akn ke act 1924 3 Civil Procedure Act* Cap 21 Laws of Kenya, and under Order 40 of the Civil Procedure Rules – 2010, and under any other provisions of Laws of Kenya.
2. It seeks orders;
  1. Spent.
  2. Spent.
3. That pending the hearing of the suit herein this Honourable Court be and is hereby pleased to order a physical measurement and re-surveying of the Plaintiff Applicant's parcel of land Kajiado Kitengela 107328, the 1<sup>st</sup> Defendant Respondent's parcel of land Kajiado Kitengela 117785 and the 3<sup>rd</sup> Defendant Respondent's parcel of land Kajiado Kitengela 117785 with view to establish the actual boundaries of the said parcels as per the registered title deeds of the said parcels of land.



4. That pending the hearing and determination of the suit herein this Honourable Court be and is hereby pleased to restrain the Defendants Respondents either by themselves, servants, or agents from adjusting their boundaries or demolishing or interfering with the Plaintiff Applicant's developments on the parcel of Land Kajiado Kitengela 107328.
5. That Costs of the application be in the cause.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 4.
4. The Application is supported by the affidavit of Ephantus Karubiu, an official of the Plaintiff Applicant, sworn on the 29<sup>th</sup> May, 2025.
5. It appears that the 1<sup>st</sup> Defendant Respondent did not file any response to the Notice of Motion.
6. The 2<sup>nd</sup> Defendant Respondent filed a Replying Affidavit sworn on the 21<sup>st</sup> August 2025.
7. The 3<sup>rd</sup> and 4<sup>th</sup> Defendants Respondents did not file any responses.
8. The Notice of Motion was canvassed by way of written submissions.
9. The Plaintiff Applicant's submissions are dated 21<sup>st</sup> October 2025.
10. It appears the 2<sup>nd</sup> Respondent did not file any written submissions.
11. I have considered the Notice of Motion, the affidavit in support, the response thereto, the written submissions. The issue for determination is whether the Application is merited.
12. The conditions for grant of temporary injunction were set out in the case of Giella Vs. Cassman Brown & Co. Limited (1973) EA 358.
13. I agree with the 2<sup>nd</sup> Defendant Respondent's averment that Kajiado Kitengela 107328 has since been subdivided hence it does not exist. I therefore decline to grant an order of temporary injunction.
14. However, I think there is need to establish the boundaries of Kajiado Kitengela 107328 (originally)
15. I therefore grant prayer NO. 3 of the Notice of Motion. The costs shall abide the outcome of the main suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 27<sup>TH</sup> DAY OF NOVEMBER 2025.**

**L.KOMINGOI**

**JUDGE.**

In The Presence Of:

N A for the Plaintiff Applicant.

Mr.Itaya for Mr. Kirui for the 2<sup>nd</sup> Defendant Respondent.

N A for the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> Defendants.

Court Assistant – Peter.

