



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND COURT
ELCL MISC. E046 OF 2025
IN THE MATTER OF AN APPLICATION FOR ORDERS OF
CERTIORARI AND MANDAMUS
AND
IN THE MATTER OF REGISTRAR OF LANDS, KIAMBU
COUNTY

PAUL MWANGI WANGO.....
....APPLICANT

VS

MINISTRY OF LANDS AND PHYSICAL PLANNING
RESPONDENT

RULING

- 1) By a Notice of Motion filed on 2/06/2025 the Ex Parte Applicant is seeking the following orders:
1. Spent.
 2. THAT the Applicant be granted leave to apply for an ORDER of CERTIORARI to remove into the High Court and quash the decisions of the Registrar of Lands to enter

restrictions on land parcel number
NDUMBERI/RIABAI/1900:

- o A restriction placed on 4th November 2013 vide Assistant County Commissioner's letter Ref **16/3/Vol.IV/37** dated 30th October 2013.
 - o A restriction placed on 24th June 2014 vide Deputy County Commissioner's Letter Ref **LND/16/23/Vol VI/1** dated 24th June 2014
3. THAT the Applicant be granted leave to apply for an **ORDER of MANDAMUS** to compel the Registrar of Lands, Kiambu County to revoke the restrictions placed on **NDUMBERI/RIABAI/1900.**
4. THAT the costs of this application be provided for.
- 2) The Court perused the application and noted that the decision sought to be quashed by the Ex Parte Applicant who is seeking leave to file a Judicial Review application was made on 30/10/2013 and a restriction was placed on the land on 4/11/2013. The second decision was made on 24/06/2014.
- 3) Order 53 Rule 2 of the Civil Procedure Rules requires that such an application be made within 6 months of the making of a decision. The application in this case was being made after 12 and 11 years respectively after the decisions had been made. It appeared to the Court that the application was time barred. The Court thereupon made orders for Counsel for the Applicants to

address the Court through written submissions on the application.

- 4) The Counsel for the Ex Parte Applicant filed his written submissions dated 18/11/2025, which submissions I have read and I appreciate the effort that the Counsel put in the research and the cases quoted therein.
- 5) I note however that the Counsel for the Ex Parte Applicant steered clear from addressing the issue of time-frame of making an application for Judicial Review and focused more on the illegality of placement of restrictions on the suit property.
- 6) The Respondent did not file any response to the application.

Analysis and Determination

- 7) The main issue for determination is whether the application for leave to institute Judicial Review proceedings is time barred and whether the Court has power to extend time to file Judicial Review proceedings.
- 8) The substantive law governing an application for Judicial Review is Section 9(3) of the Law Reform Act which stipulates that:-

“In the case of an application for an order of certiorari to remove any judgment, order, decree, conviction or other proceedings for the purpose of its being quashed, leave shall not be granted unless the application for leave is made not later than six months after the date of judgment, order, decree, conviction or other proceeding or such shorter period

as may be prescribed under any written law; and where that judgment, order, decree, conviction or other proceeding is subject to appeal, and a time is limited by law for the bringing of the appeal, the Court or Judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

- 9) The said Section is replicated in Order 53 Rule 2 of the Civil Procedure Rules which provides that:-

“Leave shall not be granted to apply for an order of certiorari to remove any judgment, order, decree, conviction or other proceeding for the purpose of its being quashed, unless the application for leave is made not later than six months after the date of the proceeding or such shorter period as may be prescribed by any Act; and where the proceeding is subject to appeal and a time is limited by law for the bringing of the appeal, the judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.”

- 10) The above provisions are quite clear that upon the lapse of six months from the date of any Judgment, Order, Decree, conviction or other proceeding, the Court is not in a position to grant leave to apply for an order of certiorari aimed at quashing the relevant Judgment, Order, Decree, conviction or other

proceeding. Therefore, the application ought to be filed within six months from the time the decision to be quashed is made.

11) A similar issue as in this application was dealt with by Mativo J. in **Republic vs Council of Legal Education & Another Ex parte Sabiha Kassamia & Another [2018] eKLR** where the Court was considering an application whether it has power to extend time to file Judicial Review application. The Learned Judge cited the decision of the Court of Appeal in the case of **Wilson Osolo vs John Ojiambo Ochola & Another [1995] eKLR** where the Court held that there was no power to extend time to file Judicial Review application under the Law Reform Act and under Order 53 Rule 2 of the Civil Procedure Rules. The Appeal Court in the case cited had held that:

“It can readily be seen that Order 53 Rule 2 (as it then stood) is derived verbatim from Section 9(3) of the Law Reform Act. Whilst the time limited for doing something under the Civil Procedure Rules can be extended by an application under Order 49 of the Civil Procedure Rules that procedure cannot be availed for the extension of time limited by statute, in this case, the Law Reform Act. There is no provision for extension of time to apply for such leave in the Limitation of Actions Act (Cap 22, Laws of Kenya) which gives some limited right for extension of time to file suits

after expiry of a limitation period. But this Act has no relevance here.”

Mativo J. upon citing some Court of Appeal decisions went on to hold that:

“The above decisions were rendered by the Court of Appeal. They are binding to this Court. I find no reason to depart from them. My finding is reinforced by the clear language of the above provisions.”

12) The Court held a similar view in **Republic vs Director of Land Adjudication and Settlement & 2 Others [2017] eKLR** where my sister Justice Kemei stated that:-

“Section 9 of the Law Reform Act, Cap 26 is very explicit in the time frame within which an order for certiorari may be applied and has similar provisions as the Civil Procedure Rules aforesated. Section 9(3) of the Law Reform Act read together with Order 53 Rule 2 are couched in mandatory terms; Leave shall not be granted unless an application for leave is made not later than 6 months after the date of the decision.”

13) In the case of **Republic v Mwangi Nguyai & 3 Others Ex-Parte Haru Nguyai High Court Constitutional & Judicial Review Division Misc. Application No. 89 of 2008** the Court stated as follows;

“Judicial Review proceedings ought as a matter of public policy to be instituted heard and determined

within the shortest time possible hence the stringent limitation provided for instituting such proceedings. It is recognized that Judicial Review jurisdiction is a special jurisdiction. The decisions of parastatals and public bodies involve million and sometimes billions of shillings and public policy demands that the validity of those decisions should not be held in suspense indefinitely. It is important that citizens know where they stand and how they can order the affairs in light of such administrative decisions. The financial public in particular requires decisiveness and finality in such decisions. People should not be left to fear that their investment or expenditure will be wasted by reason of belated challenge to the validity of such decisions. The economy with the current volatile financial markets cannot have such uncertainty. As such Judicial Review remedies being exceptional in nature should not be made available to indolents who sleep on their rights. When such people wake up they should be advised to invoke other jurisdictions and not Judicial Review. Public law litigation cannot and should not be conducted at the leisurely pace too often accepted in private law disputes.”

14) Similarly, in **Republic v the Minister for Lands and Settlement & Others Mombasa HCMCA No. 1091 of 2006**

the Court held that the legal business can no longer be handled in a sloppy and careless manner and some clients must realise at their cost that the consequences of careless and leisurely approach must fall on their shoulders.

15) The six-month deadline for applying for an order of *certiorari* to quash a decision being a statutory requirement designed to ensure legal certainty and finality in judicial and administrative proceedings as provided under Order 53(2) of the Civil Procedure Rules and Section 9(3) of the Law Reform Act, prevents parties from indefinitely challenging old decisions. It promotes confidence in the Courts and the rule of law by providing a clear timeframe within which to seek Judicial Review.

16) I have given due consideration to the issues raised in the application herein. I form the considered view that the application is time-barred and the Applicant may choose to use other legal provisions and procedure by way of Review, setting aside or Appeal for an aggrieved party in the presenting circumstance. Thus, the leave sought is not available to the Applicant.

17) It is given that I am in total agreement with the views expressed above on the mandatory nature of Section 9 of the Law Reform Act. In the instant application, it is clear that the decisions that the Applicant seek that it be quashed is the one dated 30/10/2013 and 24/06/2014 having been made by the Assistant County Commissioner and the Deputy County Commissioner respectively.

18)The application should therefore have been filed within six months of the making of the decisions. The Applicant have not shown that he was pursuing an Appeal or that he engaged in an alternative process to engage the Respondent to find an amicable solution to the matter. Therefore, time started running from 30/10/2013 and 24/06/2014 when the decisions were made.

19)Thus, I accordingly hold that the application for leave having been filed on 2/06/2025 was brought to Court out of time and is thereby time-barred. The Court has no power to extend time to file Judicial Review proceedings.

20)The upshot is that there is no merit in the application dated 2/06/2025 seeking for orders for leave to file Judicial Review proceedings. The application for leave to institute Judicial Review is therefore time-barred and is thereby dismissed with no order as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS
3RD DAY OF DECEMBER, 2025 VIA MICROSOFT TEAMS.**

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**MOGENI J
JUDGE**

In the presence of:

Mr. Keter for the Applicant

Respondent - Absent

Mr. Melita - Court Assistant

.....
**MOGENI J
JUDGE**

ORIGINAL