



REPUBLIC OF KENYA



Kimani & another v Meeli & another (Environment and Land Case 108 of 2017) [2025] KEELC 8589 (KLR) (4 December 2025) (Ruling)

Neutral citation: [2025] KEELC 8589 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE 108 OF 2017
LC KOMINGOI, J
DECEMBER 4, 2025**

BETWEEN

PETER MUNGAI KIMANI 1ST PLAINTIFF

ELIZABETH WANJIKU NJOROGE (AS ADMINISTRATOR OF THE ESTATE OF JOHN DUNCAN MBICHI (DECEASED)) 2ND PLAINTIFF

AND

BISHOP MOSES MEELI 1ST DEFENDANT

TIMOTHY KIPAPA MEELI 2ND DEFENDANT

RULING

1. This Ruling is in respect of the Notice of Motion dated 24th July 2024 brought under (Order 51 of the Civil Procedure Rules 2010, Section 3 and 3A of the [Civil Procedure Act](#), Order 45 and All other enabling Provisions of law).
2. It seeks orders;
 1. Spent.
 2. That this Honorable Court be pleased to review and set aside the Judgement delivered on 14th March 2024 in so far as it declared that the 1st and 2nd Plaintiffs are entitled to equal shares in the suit land.
 3. That do reconsider the documentary evidence on record showing the differing contributions made by the 1st and 2nd Plaintiffs towards the purchase of the suit land.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 6.



4. The Application is supported by the Affidavit sworn by Peter Mungai Kimani, the 1st Plaintiff/Applicant, herein sworn on the 24th July 2025.
5. The Application is opposed. There is a Replying Affidavit sworn by the 2nd Defendant/Respondent sworn on the 9th October 2025.
6. There are also grounds of opposition dated 28th October 2025 filed by the 1st and 2nd Defendants.
7. On the 23rd October 2025 the court with the consent of the parties directed that the Notice of Motion be canvassed by way of written submissions.
8. I have considered the Notice of Motion, the affidavit in support, the responses thereto, the written submissions and the authorities cited. The issue for determination is whether this Application is merited.
9. Order 45 rule 1, 2 of the Civil Procedure Rule 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.
 - (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellants, or when, being respondent, he can present to the appellate court the case on which he applies for the review.”
10. In the Judgement delivered on the 14th March 2024 thus Honourable Court observed thus;

“It is the Plaintiffs’ case that they purchased Land Registration Number Kajiado/Lorngusua/109 from Barclays Bank of Kenya Limited through a public auction held on 16th October 2003 for a valuable consideration of Kshs.1,000,000/= as evidenced by copy of the newspaper advertisement of the public auction dated 6th October 2003 marked as P. Exhibit 6, transfer by charge in exercise of power of sale dated 20th January 2004 marked as P. Exhibit 7 and was consequently issued title to the property on 15th April 2004 produced as P. Exhibit 1. However, the 1st and 2nd Defendants had been interfering with the suit property and denied them possession.”
11. In the plaint filed by the Plaintiffs are described as joint registered owners of the suit property.



12. The Memorandum of Sale dated 16th October 2003 shows that the suit property was sold to John Duncan Mbichi and Peter Mungai Kimani who were declared purchasers after paying Kshs.1,000,000. There is no evidence to show that the 1st Plaintiff paid more to be entitled to a larger share of the suit property.
13. The transfer of charge in exercise of the Power of Sale dated 20th November 2004, shows that it was to John Duncan Mbichi and Peter Mungai Kimani in equal shares.
14. The title deed issued on 15th April 2004 is in the names of the two plaintiffs as joint owners.
15. In the case of National Bank of Kenya Limited v Ndungu Njau the court stated thus;

“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 any elaborate argument to be established. It will not be a sufficient ground for 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 ----- exposition of the law and reached an erroneous conclusion of law. Misconstruing a statute or other provision of law cannot be a ground for review.”

16. Similarly in the case of Otieno Ragot & Company Advocates v National Bank of Kenya Limited (2020) eKLR the Court of Appeal observed as follows;

“Section 80 of the *Civil Procedure Act* and Order 45 rule 1 of the Civil Procedure Rules gives the court unfettered discretion to make such order as it thinks fit on sufficient reason being given for review of its decision. However, as it has been constantly stated this discretion should be exercised judiciously and not capriciously.....”

“.....The main grounds for review are therefore; discovery of new and important matter or evidence; mistake or error apparent on the face of the record; or for any other sufficient reason and most importantly, the application has to be made without unreasonable delay.”

I agree with the 2nd Plaintiff's submissions that the Application does not satisfy the grounds for review.

17. In conclusion I find no merit in this application and the same is dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 4TH DECEMBER 2025.

L. KOMINGOI

JUDGE

In The Presence Of:

N/A for the 1st Plaintiff.

N/A for the 2nd Plaintiff.

Mr. Ngaira for the 1st, 2nd Defendants.

N/A for 3rd, 4th Defendants.

Court Assistant – Peter.

