



REPUBLIC OF KENYA



KENYA LAW
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**Kareria v Kiruma & 3 others (Land Case E011 of 2025)
[2025] KEELC 8498 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 8498 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
LAND CASE E011 OF 2025
LN MBUGUA, J
DECEMBER 3, 2025**

BETWEEN

TITUS MUNENE KARERIA PLAINTIFF

AND

CHARLES NJUGUNA KIRUMA 1ST DEFENDANT

JOYCE CHEPCHIRCHIR RONO 2ND DEFENDANT

LAND REGISTRAR, RUMURUTI LAND REGISTRY 3RD DEFENDANT

SUB-COUNTY SURVEYOR, RUMURUTI SUBCOUNTY 4TH DEFENDANT

RULING

1. By a plaint dated 21.8.2025, the plaintiff filed this suit claiming that he is the bonafide owner of 10 acres out of parcel LR. Marmanet/ North Rumuruti Block 2 (Ndurumo)/9 (the suit land) pursuant to a Certificate of confirmation of grant issued in Meru H.C Succession case no. 442 of 2004. He seeks orders interalia cancellation of the title issued to the 1st defendant, as well as a permanent injunction restraining the defendants from dealing with the said land.
2. The plaintiff also filed an application contemporaneously with the plaint seeking interalia injunctive orders against the defendants. The application came before this court for directions on 28.8.2025 when orders were given as follows;
 - “ a. That the application is not certified as urgent.
 - b. That the application and all suit documents be served by 10/9/2022.
 - c. That the respondents shall file and serve their responses by 24/9/2025.
 - d. That parties shall file and serve their skeleton submissions by 9/10/2025



- e. That the matter shall be mentioned on 23/10/2025 for further directions”.
3. On 23.10.2025, counsel for the plaintiff informed the court that they effected service on 3.9.2025 in compliance with the court’s directions of 28.8.2025, that the responses were to be done by 24.9.2025, but none were filed. That by 15.10.2025, there was no memorandum of appearance, thus the plaintiff filed a request for judgment. The plaintiff therefore argues that the documents filed by the 1st and 2nd defendants including the memorandum of appearance filed on 16.10.2025 should be expunged from the records, the application dated 21.8.2025 be allowed and the matter be set down for formal proof.
 4. Counsel for the plaintiff avers that in the event that the documents of the 1st and 2nd defendants are allowed, then prayer no. 2 & 4 in the application should be allowed.
 5. Counsel for the 1st and 2nd defendants avers that they should not be driven from the seat of justice, since the memorandum of appearance was filed as soon as the instructions were given, noting that the defendants are laymen. He further stated that they lost an advocate called Mwangi in their office at the time the instructions were being given by their client. And subsequently thereafter, he had personal bereavement where he was burying his mother on 2.10.2025. He added that issuance of the orders sought would amount to a recipe of chaos as they amount to eviction orders.
 6. The issue falling for determination is whether the documents so far filed by the 1st and 2nd defendants should be expunged or not, whether the request for judgment should be allowed paving way for a formal proof of the plaintiffs claim and whether prayers no 2 & 4 in the application should be allowed.
 7. A perusal of the record reveals that there is an affidavit of service confirming that defendants were served with the suit documents including the summons to enter appearance on 3.9.2025. However, the right to be heard is sacrosanct, See *Kitek (7) Limited v Wanakuta & 8 others (Sued in their capacities as officials of the Salvation Army) (Civil Case 166 of 2012) [2025] KEHC 13974 (KLR) (Commercial and Tax) (25 September 2025) (Ruling)*, *Republic v Advocates Disciplinary Tribunal Exparte Apollo Mboya [2019] eKLR*. Also see the provisions of Article 50 (1) of *the Constitution* on what amounts to a fair trial.
 8. This matter is at the infancy stage and counsel for the 1st and 2nd defendants has given a plausible account for not filing their documents in good time. In that regard, the documents filed by the 1st and 2nd defendants are hereby deemed to be properly on record.
 9. On the request for judgment, this court makes reference to the provisions of Order 10 Rules 4, 6, 9 and 10 of the Civil Procedure Rules, whereby interlocutory judgment cannot issue in land matters unless the claim is accompanied by a prayer for pecuniary damages; See, *Peter Karanja Kamani v Isaac Mwangi Kimani (2018) eKLR*. *Beatrice Wanjiru Kamuri v John Kibira Muiruri [2016] eKLR*. No claim for liquidated amounts has been made by the plaintiff save on mesne profits, where no specific amounts have been mentioned. As such, the request for judgment has no basis. The plaintiff is however at liberty to formally prove his case as against the 3rd and 4th defendants who so far have not entered appearance.
 10. On the issuance of some prayers in the application dated 21.8.2025, the court declines to issue any prayers at this stage in view of the fact that the application is yet to be formally prosecuted.
 11. In the final analysis, I proceed to give directions as follows;
 1. The 1st and 2nd defendants are directed to file and serve their statements of defences within 14 days from the date of delivery of this ruling.
 2. The application dated 21.8.2025 is to be heard expeditiously.



**DATED, SIGNED AND DELIVERED AT NYAHURURU THIS 3RD DAY OF DECEMBER 2025
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:

Vanessa – Court Assistant

Ng'ang'a Gicheha for Plaintiff

Kibet for 1st and 2nd Defendants

