



**Ndui & another v Mukandi; Land Registrar, Embu District Land Registry
(Interested Party) (Environmental and Land Originating Summons
E001 of 2024) [2025] KEELC 18525 (KLR) (10 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 18525 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT EMBU
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E001 OF 2024
AK BOR, J
DECEMBER 10, 2025**

BETWEEN

LEWIS ANTONY MWANGI NDUI 1ST APPLICANT

JOSEPHAT KAMAU NDUI 2ND APPLICANT

AND

NJERU MUKANDI RESPONDENT

AND

**LAND REGISTRAR, EMBU DISTRICT LAND REGISTRY INTERESTED
PARTY**

RULING

1. The Applicants filed the application dated 11/6/2025 seeking to have the court review and set aside the order it made on 26/3/2025 excusing the Land Registrar from further participating in these proceedings. They sought to have the Land Registrar ordered to file and serve on the parties the booking form that was lodged to register the caution by "Nagoseco the Movers Limited" Reg No. PVT LRUYLIYD of PO Box 59892-0100 Nairobi claiming purchaser's interest and the evidentiary material that accompanied the application for the caution. The other documents sought are the booking form that was lodged to register the restriction by the Directorate of Criminal Investigations (DCI) vide the letter referenced CID/O/GEN/4/414/VOL-VI/156 dated 23/8/2023; and any other document relevant to the determination of this suit in the Interested Party's custody.
2. The Applicants sought directions on the hearing of the suit particularly compelling the Interested Party to appear in court to give evidence.



3. The application was made on the grounds set out in the supporting affidavit sworn by the 1st Applicant, Lewis Antony Mwangi Ndui. He averred that on 26/3/2025, this court gave directions excusing the Interested Party, the Land Registrar Embu District Land Registry, from further participating in these proceedings, on the understanding that they would act upon any resulting court orders. That the Interested Party was excused from participation on the presumption that it would aid in determination of the issues herein, act in good faith and in accordance with the directions of this court. He averred that through their advocates, they wrote to the Interested Party through the Attorney General, requesting the lifting of the caution and restriction placed against Embu/Iraitune/1592 by Nagoseco the Movers Limited and the DCI respectively as they appear on the official search conducted by the Applicants.
4. He stated that the request was anchored on the legitimate expectation that as a public office and the custodian of land registry documents, the Interested Party would accede to the request or disclose and give reasons for a contrary opinion including availing evidence for the reasons. He contended that the Interested Party failed to respond to the letter and the follow up letter dated 15/5/2025 from their advocates requesting and demanding particulars and documents related to the registration of the said entries. In view of the Interested Party's intransigence and indifference to their requests, they filed and served a notice to produce dated 9/6/2025 upon the Respondents and the Interested Party urging production of certain vital documents that are critical for the determination of pertinent issues.
5. He contended that it was necessary to have the orders made on 26/3/2025 set aside in order for the Interested Party to be interrogated on the propriety and veracity of the documents in question. He expressed apprehension that the Interested Party's demeanor and disposition so far pointed to a party that is complicit and in contempt hence it was only fair and just for the court to intervene. He added that the continued existence of the caution and restriction and the mystery surrounding the Applicants for the caution and restriction imminently frustrated the effective resolution of the suit hence it is vital to compel the Interested Party to file the requested documents and to be interrogated. He annexed copies of the letters, official search for the suit property and the notice to produce dated 9/6/2025 to the application.
6. The Interested Party opposed the application vide grounds of opposition and contended that the application was premature, an afterthought, vexatious, misplaced and an abuse of the court process. It argued that if the caution were lifted, it would be prejudicial to the Respondents because the Respondents's counsel was against its removal before the case is heard to its logical conclusion. They averred that the letter from the applicant's advocate should have been addressed to the Land Registrar Mbeere North and not the Land Registrar Embu. They argued that the letters from the Applicants' advocates only sought the lifting of the caution and restriction but did not list the documents sought to be produced under paragraph 3 of the orders sought in the application. They maintained that whether or not the Land Registrar participates in the matter will not be prejudicial to any of the parties and that the Registrar was willing to implement the orders that the court will give.

The Respondents did not oppose the application.

7. The application was canvassed through written submissions. Only the Applicants filed their submissions while the Interested Party elected not to file any submissions and instead relied on the proceedings of 26/3/2025 and on the grounds of opposition.
8. The Applicants submitted that the legal framework for a notice to produce documents was founded on Section 69 of the *Evidence Act*. That the purpose of the notice to produce is to ensure that a party who possesses or controls a document relevant to a case produces it for inspection or use as evidence. They cited *Concord Insurance Company Limited versus NIC Bank Limited* (2013) eKLR and *Oracle Production Limited v Decapture Limited and 3 Others* (2014) eKLR to support that position. Further,



that their notice clearly specified the documents sought and the time and place for their production, describing it as a precise requisition essential for the just determination of the case.

9. The issue for determination is whether the application has merit. The genesis of this dispute is that the Applicants purchased suit land from the Respondents but could not transfer the land to their names owing to the caution lodged by "Nagoseco the Movers Limited claiming purchaser's interest and a restriction registered by the DCI against the land.
10. The court made the order excusing the Interested Party from participating in the proceedings on 26/3/2025 when the State Counsel informed the court that the Registrar was ready and willing to abide by the decision of the court. Strictly speaking no orders are sought against the Land Registrar in the suit nor are any allegations of wrongdoing imputed against the Land Registrar in the suit, save the production of documents which the Applicants seek. The Applicants claim that the Interested Party failed to supply the documents they requested for on in May 2025.
11. The court grants prayer 2 of the application dated 11/6/2025. Costs shall be in the cause.

DELIVERED VIRTUALLY AT EMBU THIS 10TH DAY OF DECEMBER, 2025.

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K. BOR

JUDGE

In the presence of:

Mr. Mwangi Mburu for the Applicant

Mr. Njeru Mukandi - the Respondents in court

Diana Kemboi - Court Assistant

