



Republic v Land Registrar, Kiritiri & another; Nthiga & another (Ex parte Applicants) (Environment and Land Case Judicial Review Application E002 of 2025) [2025] KEELC 18527 (KLR) (9 December 2025) (Judgment)

Neutral citation: [2025] KEELC 18527 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT EMBU
ENVIRONMENT AND LAND CASE JUDICIAL REVIEW APPLICATION E002 OF 2025
AK BOR, J
DECEMBER 9, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

LAND REGISTRAR, KIRITIRI 1ST RESPONDENT

HON. ATTORNEY GENERAL 2ND RESPONDENT

AND

JAMES NJERU NTHIGA EX PARTE APPLICANT

ANN WAMBUI NJERU EX PARTE APPLICANT

JUDGMENT

1. The Applicants filed the substantive Notice of Motion dated 24/03/2025 under Order 53 Rule 3(1) of the Civil Procedure Rules seeking an order of mandamus to compel the Land Registrar, Kiritiri to process and issue title deeds to the Applicants in respect of the subdivisions of Mbeti/Gachoka/4235 being Mbeti/Gachoka/11267 to 11275.
2. The grounds on which the application was made are that the Applicants are the registered owners of Mbeti/Gachoka/4235 and the subsequent subdivided parcels Mbeti/Gachoka/11267 to 11275. They averred that they were the registered proprietors of the land, which they acquired for valuable consideration paid to the previous registered owner and through the order of the court made in Siakago MCL&E Case No. 107 of 2018. They added that they subdivided the original parcel no. 4235 into Mbeti/Gachoka/11267 to 11275 but that the Land Registrar, Kiritiri had unlawfully failed, refused or neglected to process and issue them the title deeds in respect of the resultant subdivisions. They



- contended that the action by the Registrar had no justification, was grossly unreasonable and violated the principles of good administrative practices.
3. James Njeru Nthiga swore the supporting affidavit and annexed a bundle of correspondence, original title deed to land parcel 4235 and a mutation form for the subdivision of the suit land.
 4. The Principal Land Registrar, Kiritiri, Margaret Mutai filed a replying affidavit opposing the application. She averred that the suit land was registered in favour of the Applicants and a title deed issued on 4/12/2015 but a dispute arose between them and the vendors, which was heard and determined on 1/8/2024. She discovered that the suit property was a subdivision of Mbeti/Gachoka/88, which was the subject of succession proceedings because some family members had been left out of the probate process. Owing to these findings, she demanded production of the succession documents used to register and sell the property.
 5. That she inquired from the Deputy County Commissioner who informed her office that the matter was under investigation on how succession was conducted. She added that the Chief Land Registrar and the Principal Secretary advised her to place a restriction on the land until valid succession documents were produced. She stated that when the 1st Applicant went to pursue registration of the mutations, he was informed of the restriction and the reasons behind it. However, it is alleged that he responded with threats and intimidation. She averred that the vendor, Samuel Njeru Daniel, fraudulently and illegally obtained succession documents and unlawfully sold the suit property to the Applicants. She annexed a copy of the green card for land parcel 4235.
 6. The application was canvassed through written submissions. The Applicants submitted that no person had made any formal objection against the issuance of new titles to them and that no legal and or justifiable grounds exist for the Land Registrar to refuse to issue titles to them. They argued that the Registrar's refusal was a clear contravention of their right of proprietorship under Sections 24, 25 and 26 of the *Land Registration Act*. They contended that the Registrar's refusal was ultra vires her mandate and violated Article 47 of *the Constitution* and the principle of res judicata as per the judgment in Siakago PMCC No. 107 of 2018.
 7. The Respondents submitted that the requirements for an order of mandamus to issue were explained in Republic v Principal Secretary, Ministry of Internal Security and another ex-parte; Schon Noorani and another (2018) eKLR. They submitted that section 14 of the *Land Registration Act* sets out the general powers of Land Registrars and that under Section 14(1), a Land Registrar is empowered to require any person to produce documents relating to any land, summon individuals to appear and provide information, refuse to proceed with registration where documents or information are not provided, administer oaths, require verification of information by oath or declaration, and direct that costs incurred during investigations be borne by specific persons. Accordingly, that a Land Registrar is under a public legal duty to act lawfully, reasonably, and fairly.
 8. They submitted that from the register for parcel no. 4235, a title deed was issued to the ex-parte Applicants on 4/12/2015. Thereafter, the prohibition placed on the said land was lifted vide Siakago PMC MCL No. 107 of 2018 on 1/8/2024. That the register showed that the first entry made on the land was questionable which raises concerns about the legality of the initial registration, which is the root of the current title. In light of these irregularities, any subsequent entries or transactions based on that registration may be compromised and it was imperative that the transmission of the land be addressed to ensure the register reflects lawful entitlement.
 9. That until proper succession was undertaken and the root of title regularized, the Land Registrar could not be faulted for declining registration or taking precautionary steps. They explained that the Registrar summoned the Applicants to provide relevant documents concerning the suit land but they



- failed to comply. That in the circumstances, the Registrar could not proceed with registration or any further administrative action. They urged that the 1st Respondent should not be faulted for declining or deferring action where statutory requirements and due process had not been satisfied.
10. It was submitted that no enforceable duty arises in favour of the Applicants where they have not satisfied the statutory prerequisites necessary to trigger such a duty. Further, that the 1st Respondent's actions were not only lawful but necessary to prevent perpetuation of irregularities in the land register and ensure compliance with the applicable land laws and procedures. The Respondents urged that that the threshold for issuance of an order of mandamus was not met.
 11. The issue for determination is whether the application has merit. The Applicants seek an order of mandamus to compel the Land Registrar, Kiritiri, to process and issue title deeds for Mbeti/Gachoka/11267 to 11275. They contend that they are the lawful owners of the original parcel being Mbeti/Gachoka/4235, and its subdivisions, which they acquired for valuable consideration and pursuant to orders said to have been issued in Siakago MCL&E Case No. 107 of 2018.
 12. The court notes however, that although both parties have made extensive reference to Siakago MCL&E Case No. 107 of 2018, the proceedings and judgment of that court were not availed to assist this court ascertain the findings or the nature of the orders issued in that case.
 13. The Respondents opposed the application, raising concerns of possible irregularities or illegalities in the succession proceedings relating to Mbeti/Gachoka/88, from which the suit land was excised. The Registrar explained that although Mbeti/Gachoka/4235 is registered in the Applicants' names, inquiries had revealed that it originated from Mbeti/Gachoka/88, which formed part of land that had not been lawfully subjected to succession proceedings. It is contended that Samuel Njeru Daniel who sold the land to the Applicants, fraudulently and illegally obtained succession documents and unlawfully sold the suit property to the Applicants. The Registrar indicated that despite requests for clarification on the legitimacy of the succession process, no satisfactory explanation was provided and the Registrar declined to issue title deeds for the resultant subdivisions.
 14. In this court's view, the Land Registrar has raised valid concerns regarding the root of the Applicants' title that have not been addressed. The Land Registrar is empowered by Section 14 of the [Land Registration Act](#) to call for documents or information and to refuse to proceed with any registration unless such information or explanation is availed. The Land Registrar's explanation for the decision not to issue title deeds for the subdivided portions pending clarification of the succession transmission process of the suit land is reasonable in the circumstances.
 15. The court declines to grant the orders sought in the application dated 24/03/2025. The Respondents are awarded costs.

DELIVERED VIRTUALLY AT EMBU THIS 9TH DAY OF DECEMBER 2025.

K. BOR

JUDGE

In the presence of: -

Diana Kemboi- Court Assistant

No appearance for the parties

