



Republic v Gachoka District Land Disputes Tribunal & 2 others; Elias (Ex parte Applicant); Njeru (Sued as the Legal Representative of the Estate of Faustino Njeru Njoka - Deceased) & another (Interested Parties) (Environment and Land Judicial Review Case E008 of 2021) [2025] KEELC 5913 (KLR) (30 July 2025) (Judgment)

Neutral citation: [2025] KEELC 5913 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT EMBU
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E008 OF 2021**

**AK BOR, J
JULY 30, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

GACHOKA DISTRICT LAND DISPUTES TRIBUNAL 1ST RESPONDENT

LAND REGISTRAR KIRITIRI 2ND RESPONDENT

THE ATTORNEY GENERAL 3RD RESPONDENT

AND

NJAGI NJERU ELIAS EX PARTE APPLICANT

AND

JECINTA KIURA NJERU (SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF FAUSTINO NJERU NJOKA - DECEASED) INTERESTED PARTY

MARGARET MUTHONI MUTAI INTERESTED PARTY

JUDGMENT

1. The Applicant brought the notice of motion dated 15/10/2021 under Order 53 Rule 3(1) of the [Civil Procedure Rules](#) and Sections 8 and 9 of the [Law Reform Act](#) seeking an order of *certiorari* to remove into the High Court for the purpose of quashing the decision of the Land Disputes Tribunal Gachoka, Mbeere South District in land Disputes Ministers Appeal Case No. 314 of 2003 Mbita Adjudication Section dated 20/12/2010 awarding parcel numbers Mbeere/Mbita/2091, 2185, 21672168, 2364,



- 2361 and 2362 to the interested party as well as costs of the application. The application was made pursuant to leave granted on 29/9/2021.
2. The grounds on which the application was made are that the ex-parte Applicant is a resident, beneficiary and representative of other beneficiaries that he represents in land parcels Mbeere/Mbita/2091, 2185, 2167, 2168, 2364, 2361 and 2362 Mbeere Adjudication Section. The Interested Party, Faustino Njeru Njoka, was the appellant in Minister's Land Appeal Case No. 314 of 2003 which was determined on 20/12/2010. The appeal to the Minister was against objection proceedings numbers 186 of 1980, 136 of 1980, 140 of 1980, 137 of 1980 and objection no. 139 of 1980 which were all determined under Mbita Adjudication Section Objection No. 186 of 1980 on 10/7/1991.
 3. It was urged that the right to appeal against the objection proceedings was within sixty (60) days from 10/7/1991 and that it was without justification that the Interested Party filed an appeal to the Minister in 2003 twelve (12) years beyond the time stipulated by law, which was time barred. In addition, that the Interested Party did not have the legal capacity, locus standi or claim in the suit land nor was he a participant in the objection proceedings which resulted in the appeals to the Minister. The Applicants averred that they had settled and developed the parcels of land since 10/7/1991 when the time for lodging appeals lapsed.
 4. That with the lack of legal capacity it was an act of fraud through misrepresentation and in collusion with the District Commissioner (DC), Mbeere South and Gachoka Land Disputes Tribunal that Minister's Land Appeal No. 314 of 2003 was filed, heard and a judgment delivered on 20/12/2010.
 5. It was contended that the determination was illegal, null and void an act of fraud perpetrated by the interested party and the DC. It was contended that from the onset, the Tribunal chaired by the District Commissioner Mbeere North had no powers to deal with the appeal as the Land Disputes Tribunal Act had been repealed and there were no saving clauses for the Tribunal. It was contended that the decision was a nullity and without any force of law.
 6. Further, that the Land Registrar, Mbeere South proceeded to implement the decision of 20/12/2010 which should be quashed. That he did so secretly and the rightful owners were being unlawfully evicted from the suit land. The mutation of the properties was done and titles issued. It was urged that the Tribunal determined matters that were not within its jurisdiction. It was also contended that there were judgments involving the parcels of land in favour of the Applicant to the exclusion of the Interested Party including JR Misc No. 3 of 2014 and Nyeri Court of Appeal Civil Appeal No. 85 of 2016, as well as Embu HC OS No. E14 of 2021.
 7. Njagi Njeru Elias swore the affidavit in support of the application and attached the authority to act as a representative, as well as the proceedings of the appeal to the Minister, objections proceedings no. 186 of 1980, Judgment in JR 3 of 2014, mutations for the suit land, ruling in Nyeri Civil Appeal No. 85 of 2016 and OS E14 of 2021.
 8. The Respondents opposed the application on ground that the application was contrary to Order 53 Rule 2 of the *Civil Procedure Rules* since the application for leave was made after more than six months, with the decision having been made in 2010. The other ground was that the Land Disputes Tribunal had jurisdiction to determine the appeal as the Land Disputes Tribunal Act was still in force when the appeal was lodged in 2003 and when the determination was made in 2010.
 9. It was urged that the Land Registrar was acting within his statutory mandate in carrying out registration of title deeds as the office established under the *Land Registration Act*. It was contended that the implementation of the impugned decision by the Land Registrar, Mbeere was not contrary to the judgment in JR Misc No. 3 of 2014 as the court made a pronouncement regarding Minister's



Land Appeal Case No. 258 of 2003 while the decision in issue here is Minister's Appeal Case No. 314 of 2003 and which refers to different parcels of land.

10. The 1st interested party did not file a response to the application. The court directed parties to file and exchange written submissions which it has considered. The *ex-parte* Applicant gave a brief history to the application and reiterated the grounds set out in the application while inviting the court to take judicial notice of the fact that implementing a decision on an appeal to the Minister requires implementation letters which must be issued by the Director of Land Adjudication to the specific Land Adjudication Officers and the Land Registrars in the particular location. He averred that neither the Respondents nor the interested parties availed such a letter. He urged the court to allow the application.
11. The 2nd and 3rd Respondents part submitted that the application improperly focused on the merits of the decision of the Minister rather than the procedural aspects which are the proper subject of judicial review. They seemed to admit that the Minister's Land Appeal Case No. 314 of 2003 was filed almost 12 years beyond the time stipulated by law then, and was therefore time barred but at the same time urged the court to dismiss the application for failing to establish valid grounds for judicial intervention.
12. The issue for determination is whether the application has merit. From the documents placed before this court, objection proceedings no. 186 of 1980 which formed the subject matter of the Minister's Land Appeal Case No. 314 of 2003 involved various parcels of land in Mbita Adjudication Section, Gachoka Division, among which the suit parcels herein fell. The objection was raised by John Nyaga Konji of the Nditi clan against several defendants. Rugano Nthiga represented some defendants, who were the owners of the various parcels of land including the suit parcels herein. The suit parcels of land were awarded to Rugano Thiga on behalf of the parties he represented, and the parties were given 60 days within which to appeal. The objection decision was made on 10/7/1991.
13. The appeal to the Minister was filed by Faustino Njeru Njoka against some of the defendants in the objection proceedings. It is not clear in what capacity Faustino Njeru Njoka was acting, for he was not part of the objection proceedings. It is also noteworthy that most of the defendants in the objection proceedings were excluded from the appeal to the Minister.
14. The appeal before the Minister was filed in 2003, and a decision was delivered on 20/12/2010. The appeal was filed after the 60 days allowed by Section 29 of the *Land Adjudication Act*, about 12 years later. The appeal was time barred and it follows that any decision arising from it was unlawful.
15. An order of *certiorari* is granted. The decision of the Land Disputes Tribunal Gachoka Mbeere South District in Land Disputes Ministers Appeal Case No. 314 of 2003 Mbita Adjudication Section dated 20/12/2010 awarding Mbeere/Mbita 2091, 2185, 2167, 2168, 2361, 2362 and 2364 to Faustino Njeru Njoka is quashed. The court makes no orders as to costs.

DELIVERED VIRTUALLY AT EMBU THIS 30TH DAY OF JULY 2025.

K. BOR

JUDGE

In the presence of: -

Ms. L. Chege holding brief for Mr. J. Kiongo for the Respondents

Diana Kemboi - Court Assistant

No appearance for the other parties

