



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kibwambok v Rono & 2 others (Environmental and Land Originating  
Summons E016 of 2025) [2026] KEELC 197 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 197 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E016 OF 2025**

**CK YANO, J**

**JANUARY 22, 2026**

**BETWEEN**

**MALAKWEN SEUREI KIBWAMBOK ..... APPLICANT**

**AND**

**MARY KAPTINGEI RONO ..... 1<sup>ST</sup> RESPONDENT**

**ELIZABETH JEPTUM RONO ..... 2<sup>ND</sup> RESPONDENT**

**GRACE JEPKERING CHERUIYOT ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. Vide a Notice of Motion dated 8<sup>th</sup> May, 2025 and filed under certificate of urgency, the Applicant sought the following orders:-
  1. Spent.
  2. Spent.
  3. That this Honourable Court be pleased to issue a permanent injunction against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents herein from interfering and/or engaging in any transaction in respect of the suit parcel of land known as Uasin Gishu/Sosioni/87 that is injurious to the Applicant pending the hearing and determination of this suit.
  4. That the OCS Jua Kali Police Station to enforce execution of the orders herein.
  5. That the costs of this Application be provided for.
2. The application is based on the 5 grounds on the face thereof, the applicant's Supporting Affidavit sworn on even date and on the Further Affidavit sworn on 27.11.2025. It is his claim that he has been occupying, utilizing and ploughing his portion of land since the year 1965 until recently when the



- respondents, who are his sisters' in-law being the wives of his late brother Kirwa Rono Teigut, chased him away and threatened to burn down his house.
3. It is further his claim that the respondents have already sold a portion of the suit land.
  4. He thus contends that there is need to issue an order restraining the respondents and maintaining the status quo in order to protect the suit parcel since he has a legitimate right thereto and should not be evicted without any color of right.
  5. He added that they have been residing on the suit land known as Uasin Gishu/Sosioni/87 measuring approx. 68 Acres together with the respondents in harmony. Further, that the deceased Kirwa Rono Teigut (respondents' husband) was in charge of the entire suit parcel, holding the same in trust as the elder son of the family and it is on that basis that the suit land was solely registered in the name of the deceased as shown in the copy of the title deed annexed.
  6. It is his claim that prior to his late brother's death on 15.04.1998; through a mediation process, the family and the elders had a discussion on how to share the properties sometimes around 11.11.1984 at the chief's office. He contends that a resolution was reached that he should get his share in his brother's estate, which his deceased brother was holding in trust for the family.
  7. He thus maintained that there is need to grant the orders sought so that he can be allowed to continue using the suit land and further that the application had been filed in good faith.
  8. The application was opposed. The Respondents filed a Replying Affidavit sworn on 14.11.2025, by the 3<sup>rd</sup> respondent on her own behalf and on behalf of her co-respondents. She dismissed the contents of the application as being malicious, frivolous, vexatious, devoid of merit, defective in form and substance, bad in law, made in bad faith and an abuse of the court process.
  9. She accused the applicant of being guilty of laches, concealment of material facts and real issues, deponed on half-truths. She deponed that the applicant did not have the requisite locus standi since the suit land was registered in the name of Kirwa Rono Teigut, who is since deceased and that the applicant has failed to clearly demonstrate his interest in the estate of the deceased.
  10. It was her claim that the applicant has not provided any evidence to prove that he had been fraudulently obstructed from ploughing and utilizing his portion of the suit land. She however admitted/acknowledged that the applicant lives on the suit land but does not plough/plant the same as alleged.
  11. Be that as it may, it was her contention that the applicant has not alluded and specified the exact acreage of the suit land that he alleges to be occupying and/or ploughing.
  12. She further accused the applicant of misleading the court that he has been utilizing the suit land when in fact he owns and ploughs a different parcel of land known as Leseru/Block 7/365 in Chemalal and which he has partially sold to other third parties. It is therefore her claim that the applicant is now intent on forcefully grabbing their rightful parcel of land.
  13. In response to the averments made by the applicant on the mediation process and report, it was her claim that the alleged minutes of the purported mediation alleged to have taken place in 1984 and 1997 are not only a sham but are also a forgery as the same are not attested by those who allegedly attended the same and cannot therefore form a basis for the grant of the injunctive orders sought.
  14. Further, it was her claim that the status quo orders sought are defective as the orders will dispose off the issues in dispute at an interlocutory stage before the court hears all the parties to establish the issues at the center of the dispute particularly on the acreage and use of the suit land by the respective parties.



15. She also accused the applicant of attempting to forcefully take over and plough the suit land, which efforts were resisted and which she stated resulted in his arrest.
16. In conclusion, she maintained that it would be in the best interest of justice that the application be dismissed with costs.
17. The applicant filed a Further Affidavit dated 27.11.2025 in response to the averments made by the respondents in their Replying Affidavit. He dismissed the replying affidavit as being based on falsehoods and is aimed at misleading the court.
18. In response to the averments that he is not living on the suit land, he reiterated that he has been residing on the suit land for over 50 years and urged the court to adopt the resolution made through the mediation process as contained in the mediation report, which he outlined in detail.
19. On the allegations made that he does not have the requisite locus standi to institute the proceedings herein, he stated that the said issue was concluded on merit vide the court ruling delivered on 02.10.2025.
20. He dismissed the contents of paragraphs 14 and 15 of the replying affidavit that the mediation report is a forgery as being false. He maintained that the mediation report was witnessed by over 40 members and duly signed and endorsed by the area chief.
21. He reiterated that his deceased brother, was registered as the owner of the suit land to hold the same in trust for the family as the elder son. In conclusion, he urged the court to allow the application as sought.
22. This court issued directions on 02.10.2025 to canvass the Application by way of written submissions. However, on a perusal of the court record and the online filing platform CTS, I have noted that none of the submissions filed by both the applicant and the respondents are in respect to the instant application seeking injunctive orders. Be that as it may, I will proceed to render my decision as hereunder.

#### **Analysis and Determination:**

23. I have carefully considered the application herein, the various affidavits in support of the application and the replying affidavit in response thereto in totality. In view of the foregoing, it is my considered opinion that the issues arising for determination are as follows: -
  - i. Whether the orders sought in the application are tenable at an interlocutory stage.
  - ii. Whether the Applicant has met the requirements for the grant of the injunctive orders sought.
  - iii. Who shall bear the costs of the present application.

#### **Whether the orders sought in the application are tenable at an interlocutory stage;**

24. Before delving into the merits of the present application, it is important to first consider whether the order of permanent injunction sought in prayer no. (3) is tenable at this interlocutory stage pending the hearing and determination of main suit.
25. S.M. Githinji J. in the case of Ennio Limited v Kenya Revenue Authority & another (Civil Suit E018 of 2021) [2024] KEHC 8935 (KLR) (24 July 2024) (Judgment) while differentiating temporary and permanent injunction orders stated as follows: -

“Unlike Temporary Injunctions which are granted only to be in force for a specified time or until the issuance of further orders from Court, Permanent Injunctions are rather different,



in that they are perpetual and issued after a suit has been heard and finally determined. A Permanent Injunction fully determines the right of the Parties before the Court and is usually meant to perpetually restrain the commission of an act by the Defendant in order for the rights of the Plaintiff to be protected...”

26. Therefore, in view of the above, it is evident that a court cannot issue an order of permanent injunction in an interlocutory application. Thus, the applicant ought to have applied for a temporary injunction pending the hearing and determination of the suit.
27. The order of permanent injunction in the nature sought is final in nature and if granted, its effect would amount to disposing off the entire suit at an interlocutory stage without determining the substantive issues of the main suit.
28. In addition, I wish to point out that the applicant in prayer No. (2) in the application sought temporary restraining orders against the defendants pending the hearing and determination of the application interpartes. In essence, this prayer was granted and was to be in force only pending the hearing of the application interpartes. At the point of determining the application, the orders have served its purpose and are spent.
29. In the premises, it is the finding of this court that the orders of permanent injunction sought in prayer no. (3) pending the hearing and determination of the suit are untenable and cannot be granted at this stage.
30. Consequently, having held that the orders sought are not tenable, it is my considered opinion that discussing the remaining issues would amount to an academic exercise.
31. On the issue of costs, the general rule is that costs will follow the event unless the court directs otherwise. In the present case, I find that the defendants are entitled to costs of defending the application.

**Conclusion:**

32. In view of the foregoing, I find that the Notice of Motion Application dated 8<sup>th</sup> May, 2025 is not merited and is hereby dismissed with costs to the Respondents.
33. It is so ordered.

**DATED, SIGNED AND DELIVERED IN ELDORET THIS 22<sup>ND</sup> DAY OF JANUARY 2026.**

**HON. C. K. YANO**

**ELC, JUDGE**

Ruling delivered in the virtual presence of: -

Mr. Mwaka for Respondents.

Mr. Pela for Applicant.

Court Assistant – Laban

