



**Kiburi v Deputy County Commissioner, Buuri East Sub-County; Kiunga
& 2 others (Interested Parties) (Environment and Land Miscellaneous
Case E046 of 2025) [2026] KEELC 116 (KLR) (20 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 116 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND MISCELLANEOUS CASE E046 OF 2025
BM EBOSO, J
JANUARY 20, 2026**

BETWEEN

JOTHAM CHARLES KIBURI APPLICANT

AND

**DEPUTY COUNTY COMMISSIONER, BUURI EAST SUB-
COUNTY RESPONDENT**

AND

SALOME KIUNGA INTERESTED PARTY

**SASINTA KANARIO (LEGAL REPRESENTATIVE OF CHARLES
GIKUNDA) INTERESTED PARTY**

**LUCY KARAMBU (LEGAL REPRESENTATIVE OF FLORENCE
KANYUA) INTERESTED PARTY**

RULING

1. Falling for determination in this ruling is the chamber summons dated 17/9/2025, through which Jotham Charles Kiburi seeks an order enlarging the time within which to apply for judicial review orders of certiorari against the decision of the Minister/Cabinet Secretary for Land made on 5/5/2023 relating to land parcel numbers 764, 3584 and 4663 within Ruiiri Rwarera Adjudication Section. The application was expressed as brought under Sections 8 and 9 of the *Law Reform Act*, Sections 3 and 3A of the Civil Procedures Rules and Articles 22, 23, 47 and 159 of *the Constitution*.
2. The two key issues that fall for determination in the application are: (i) Whether this court has jurisdiction to enlarge limitation period in the circumstances of the present application; (ii) Whether the application satisfies the general criteria on grant of leave.



3. The application was premised on the grounds set out in the chamber summons and in the applicant's supporting affidavit sworn on 17/9/2025. It was canvassed through oral submissions tendered on 3/11/2025. The case of the applicant is that the Minister exercised jurisdiction under Section 29 of the Land Adjudication Act and rendered a decision on 5/5/2023 in Appeal Nos 115 of 2020; 616 of 2022; and 617 of 2022, relating to parcel numbers 764; 3584 and 4663 within Ruiru Rwarera Adjudication Section. He [the applicant] was unable to lodge judicial review proceedings against the said decisions within the prescribed limitation period of six (6) months because he had not been furnished with certified copies of the proceedings.
4. The applicant adds that further delay was occasioned by the fact that there was need to initiate succession proceedings and obtain limited grants relating to the estate of the 2nd and 3rd interested parties who were irregularly heard by the Minister yet they were deceased and did not have lawful personal representatives. Lastly, he states that he had financial constraints.
5. Through the Attorney General, the respondent filed grounds of opposition dated 24/9/2025 and tendered oral submissions. The case of the respondent is that the application is fatally defective, misconceived, an abuse of the process of the court and unsustainable. The respondent adds that the application offends Sections 9(2) and 9(3) of the Law Reform Act, contending that the Act does not provide for extension of limitation period.
6. The 1st interested party opposed the application through a replying affidavit sworn on 6/10/2025 and through oral submissions tendered by her advocate, Mr Gikunda Anampiu. Her case is that the applicant was unknown to her and that she got to interact with him for the first time in 2019 when he raised an objection against her ownership of parcel number 4663 which measures one acre. She bought her land from one M'Rwito M'Rinchuri in 1984. The said seller is alive. She states that the applicant's failure to move this court within the prescribed limitation period of 6 months is unjustified, adding that she sold the suit land to one Mugambi Rindiri in 2023 and the sale was concluded at the office of the applicant's advocates, M/s Gichunge Muthuri & Co Advocates. She urges the court to reject and dismiss the application.
7. The 3rd interested party opposed the application through a replying affidavit dated 6/10/2025 and oral submissions tendered by her advocate, Mr Gikunda Anampiu. Her case is that she is the personal representative of her late mother, Florence Kanyua, who died in 2011. Land parcel number Ruiru/Rwarera/3584 measuring 4 ½, acres belonged to the late Florence Kanyua. The land was bought by her mother from one M'Rwito M'Rinchuni in 1984. Her case is that the plea for enlargement of time is unjustified.
8. The court has considered the application, the responses to the application and the parties' respective submissions. The two key issues that fall for determination in this ruling were identified in the introduction part of the ruling. I will dispose the two issues sequentially in the above order.
9. Does this court have jurisdiction to enlarge limitation period in the circumstances of this application? The application under consideration is anchored on Sections 9(2) and 9(3) of the Law Reform Act which provides as follows:
 - “(2) Subject to the provisions of subsection (3), rules made under subsection (1) may prescribe that applications for an order of mandamus, prohibition or certiorari shall, in specified proceedings, be made within six months, or such shorter period as may be prescribed, after the act or omission to which the application for leave relates.



(3) In the case of an application for an order of certiorari to remove any judgment, order, decree, conviction or other proceedings for the purpose of its being quashed, leave shall not be granted unless the application for leave is made not later than six months after the date of that judgment, order, decree, conviction or other proceeding or such shorter period as may be prescribed under any written law; and where that judgment, order, decree, conviction or other proceeding is subject to appeal, and a time is limited by law for the bringing of the appeal, the court or judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.”

10. A key feature of the *Law Reform Act* is that, it does not confer on the courts jurisdiction to enlarge the limitation period prescribed under the Act. This feature has been the subject of judicial discussion in a line of decisions and the prevailing jurisprudence is that when a party elects to seek judicial review remedy under the *Law Reform Act*, he must strictly initiate the proceedings within the period prescribed by the Act because there is no jurisdiction to enlarge the limitation period prescribed by the Act.

11. In *Ako v Special District Commissioner CA No. 27 of 1989*[eKLR], the Court of Appeal outlined the above principle in the following words:

“It is plain that under sub-section (3) of Section 9 of the *Law Reform Act* Cap 26 leave shall not be granted unless application for leave is made inside six months after the date of the judgment. The prohibition is statutory and is not therefore challengeable under procedural provisions of the Civil Procedure Rules, more specifically order 49 rule 5 which permits for enlargement of time. That is the basis of the contention that the prohibitive nature of sub-section (3) of section 9 of the Act is capable of bearing such a liberal interpretation as would make it permissible for the court to enlarge time beyond the period of six months. We have no doubt that the prohibition is absolute and any other interpretation or view of the particular provision would be doing violence to the very clear provision of subsection (3) of section 9 of the *Law Reform Act*.”

12. In the *Wilson Osolo v John Ojiambo Ochola & Another* [1995] eKLR, the Court of Appeal stated as follows:

“Section 9(3) of the *Law Reform Act* reads:

(3) In the case of an application for an order of certiorari to remove any judgment order decree conviction or other proceedings for the purpose of its being quashed, leave shall not be granted unless the application for leave is made not later than six months after the date of that judgment, order, decree, conviction or other proceeding or such shorter period as may be prescribed under any written law;.....”

It can readily be seen that order 53 rule 2 (as it then stood) is derived verbatim from S.9(3) of the *Law Reform Act*. Whilst the time limited for doing something under the Civil Procedure Rules can be extended by an application under order 49 of the Civil Procedure Rules that procedure cannot be availed of for the extension of time limited by statute, in this case, the *Law Reform Act*.



There is no provision for extension of time to apply for such leave in the Limitations of Actions Act (Cap 22, Laws of Kenya) which gives some limited right for extension of time to file suits after expiry of a Limitation period.”

13. In *Samuel Kamau Macharia & another v Kenya Commercial Bank Limited & 2 others* [2012] eKLR, the Supreme Court of Kenya underscored the source and centrality of jurisdiction in the exercise of judicial authority as follows:

“A court’s jurisdiction flows from either *the Constitution* or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by *the Constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law.”
14. What emerges from the above legal framework and jurisprudence is that this court has no jurisdiction to enlarge the limitation period prescribed under Sections 9(2) and 9(3) of the *Law Reform Act*. The result is that the application under consideration fails on the ground that this court has no jurisdiction to enlarge the limitation period of six (6) months prescribed by Section 9 of the *Law Reform Act*.
15. In the absence of jurisdiction, the court will down its tools in tandem with the principle in *Owners of Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd* [1989] eKLR.
16. The general principle on costs in Kenya’s civil legal system is that costs follow the event. There are no special circumstances to warrant a departure from the general principle.
17. The result is that the chamber summons dated 17/9/2025 is struck out for lack of jurisdiction. The applicant shall bear costs of the suit.

DATED, SIGNED AND DELIVERED AT MERU THIS 20TH DAY OF JANUARY, 2026.

B M EBOSO [MR]

ELC JUDGE

