



REPUBLIC OF KENYA



Likama v Sinkeen & 5 others (Environment and Land Case Civil Suit 496 of 2017) [2026] KEELC 153 (KLR) (22 January 2026) (Ruling)

Neutral citation: [2026] KEELC 153 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE CIVIL SUIT 496 OF 2017**

**MD MWANGI, J
JANUARY 22, 2026**

BETWEEN

WANJIRU NJUNGE LIKAMA PLAINTIFF

AND

JOEL KANCHORI OLE SINKEEN 1ST DEFENDANT

LENTE KITUNGAT NYAPAIWA 2ND DEFENDANT

DANIEL KISHIL OLE NKINYI 3RD DEFENDANT

AMOS TARAYIA SANKITI 4TH DEFENDANT

DISTRICT LAND REGISTRAR, KAJIADO 5TH DEFENDANT

JOHN KALEYIA OLE KIPAS 6TH DEFENDANT

(In respect of the Notice of Motion Application dated 4th September 2025 seeking eviction orders pursuant to Section 152E-H of the Land Act)

RULING

Introduction

1. The matter comes up for determination regarding the Notice of Motion application dated 4th September 2025, filed by the 6th Defendant/Applicant, John Kaleyia Ole Kipas. The Application is brought pursuant to Articles 40 and 47 of *the Constitution* of Kenya, Sections 152E-H of the *Land Act*, and Sections 1A, 1B, and 3A of the *Civil Procedure Act*.
2. The Applicant seeks the following substantive orders:
 - a. Spent



- b. That an order of eviction be issued against the Respondents from land parcel Kajiado/Elangata-Wuas/3648 (formerly Kajiado/Elangata-Wuas/613).
 - c. That the Officer Commanding Station (OCS), Police Post Mile 46, be directed to provide security and police assistance during the enforcement of the eviction orders.
 - d. That the costs of the Application be provided for.
3. The Application is supported by the Affidavit of the 6th Defendant, John Kaleyia Ole Kepas, sworn on 4th September 2025. The Applicant avers that he is the registered proprietor of the suit property, known as Kajiado/Elangata-Wuas/3648, measuring approximately 60.74 hectares. He deposes that this parcel is a resultant subdivision of the former parcel 613 and he holds a title deed issued on 27th March 2024 as proof of his ownership.
4. The Applicant's claim for eviction is grounded on a Judgment delivered in this matter by this Court on 29th July 2025. According to the Applicant, the Court expressly held in the judgment that the Plaintiff herein is not the legitimate owner of parcels 612 or 613, thereby extinguishing her claim to the land. The Applicant contends that this judgment confirms that the Respondents' occupation of the land is without any colour of right and constitutes trespass.
5. The Applicant further states that on 25th November 2024, he issued a statutory 'three-months' eviction notice under Section 152E of the *Land Act*. He deposes that this notice required the Plaintiff and her agents to vacate the suit land and that the notice was duly served upon them.
6. The Applicant avers that despite receipt of the statutory notice and the delivery of the Court's judgment, the Respondents have failed, refused, or neglected to vacate the suit land. He further states that they remain in unlawful occupation, having established homesteads and interred graves on the property. It is the Applicant's case that this continued occupation denies him the use and enjoyment of his property, causing him irreparable loss and undermining his constitutional rights under Article 40 of *the Constitution*.
7. Consequently, the Applicant prays for police assistance from the OCS, Police Post Mile 46, arguing that such assistance is necessary to maintain public order and security during the eviction process.
8. In response to the Application, the 1st Defendant filed a Notice of 'No Objection' dated 9th September 2025. Through his advocates, Waweru Kamau & Associates, the 1st Defendant indicated that he does not oppose the orders sought by the 6th Defendant/Applicant.
9. The 1st Defendant's position is that the 6th Defendant is the known registered owner of the original parcel Kajiado/Elangata/Wuas/613 and its resultant title Kajiado/Elangata/Wuas/3648. The 1st Defendant concedes that he has no proprietary interest whatsoever in the suit property.
10. The Application is opposed by the Plaintiff, Wanjiru Njunge Likama, through a Replying Affidavit sworn in October 2025. The Plaintiff contends that the Application is an abuse of the court process and is devoid of merit. Her opposition is founded on the following grounds:
 - a. Subject Matter of the Judgment: The Plaintiff avers that the judgment delivered on 29th July 2025 specifically adjudicated on the ownership of parcel Kajiado/Elangata-Wuas/612, which she had claimed in her plaint, and not Parcel No. 613. She accuses the 6th Defendant of clandestinely attempting to introduce Parcel 613 and misrepresenting the facts of the judgment.



- b. Jurisdiction: The Plaintiff deposes that in the said judgment, this Court indicated that no lawful orders could be issued against the 6th Defendant in the absence of a suit against him. She argues that, by extension, the 6th Defendant has no right to seek the orders canvassed in the instant application.
- c. Pending Appeal: The Plaintiff states that she was dissatisfied with the decision of this Court and has since filed a Notice of Appeal dated 1st August 2025 (annexed as WNL 1). She contends that pending the hearing and determination of the intended appeal, this Court lacks the jurisdiction to issue any further orders.

Directions

- 11. The court directed that the application be canvassed by way of written submissions, the submissions of which have been duly considered in the writing of this ruling.

Issues for determination

- 12. A critical issue that arises from a perusal of the application before the court is whether the court has the jurisdiction to entertain the same in view of the fact that judgement has been delivered in this matter, and off course whether the Notice of Motion application dated 4th September 2025 is merited.

Analysis and Determination

- 13. Upon a careful perusal of the application, the supporting affidavit, and the rival submissions, it is evident that this is not an application to execute the orders arising out of the judgment delivered on 29th July 2025. The bearing of this application is an issue that was not determined in that judgment, namely, the issue of parcel Kajiado/Elangata-Wuas/613. The record confirms that the Judgment delivered by this Court was strictly in respect of land parcel Kajiado/Elangata-Wuas/612, pursuant to the prayers by the Plaintiff in her plaint inter alia that, an order of injunction restraining the 1st Defendant from entering, cultivating, developing and or trespassing on land parcel No. Kajiado/Elangata-Wuas/612, suit land; in the alternative, a declaration be made that the Plaintiff has by adverse possession acquired ownership of the suit land.
- 14. The Applicant is effectively inviting this Court to embark on a fresh adjudication regarding a different property (Parcel Kajiado/Elangata-Wuas/613), after the suit has been concluded.
- 15. I find that this application materially offends the doctrine of *functus officio*. The doctrine of *functus officio* dictates that once a court has rendered its final decision, it ceases to have jurisdiction over the matter, save for specific exceptions such as review or correction of clerical or arithmetical errors. This position was succinctly captured in the case of *Kabansora Millers Ltd v Nyangena* [2025] KEHC 4754 (KLR), where the Court held:

“The doctrine of *functus officio* dictates that once a court has rendered its final decision, it ceases to have jurisdiction over the matter, save for specific exceptions such as review or correction of clerical or arithmetical errors.”

- 16. In expounding on this doctrine, the Supreme Court in *Odinga v Independent Electoral & Boundaries Commission & 3 others* (Petition 5, 4 & 3 of 2013) [2013] KESC 8 (KLR) held that once a court delivers its judgment, it becomes *functus officio* and cannot review or reopen the matter unless provided under specific provisions of the law to ensure legal certainty and justice.



17. Similarly, the Court of Appeal in *Telkom Kenya Limited v Ochanda (Suing on his own Behalf and on Behalf of 996 Former Employees of Telkom Kenya Limited)* [2015] KESC 18 (KLR), and *Kenya Airports Authority v Mitu-Bell Welfare Society & 2 others* [2016] eKLR, reaffirmed the doctrine, holding that once a court has fully and finally adjudicated upon a matter, it cannot reopen or reconsider the case, except under defined circumstances such as through a successful application for review.
18. Applying these principles to the instant case, this Court lacks the jurisdiction to entertain new claims or issues that fall outside the scope of execution of the decree resulting from the judgment delivered on 29th July 2025. It is outside the specific exceptions of the principle of *functus officio*.
19. Consequently, I find that this Court is *functus officio*. The upshot is that the application dated 4th September 2025 is dismissed for want of merit with costs to the Plaintiff/Respondent.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 22ND DAY OF JANUARY 2026.

M.D. MWANGI

JUDGE

In the virtual presence of:

Mr. Kudate h/b for Mr. Sakimpa for the 6th Defendant/Applicant

Mr. Kamau for the 1st Defendant

Ms. Kanini for the Plaintiff/Respondent

N/A for the 2nd -5th Defendants

Court Assistant: Mpoye

