



**Njenga (Suing through George Ngige Njenga under Power of Attorney) v Mwangi & 4 others
(Environment and Land Case 526 of 2018) [2026] KEELC 239 (KLR) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 239 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE 526 OF 2018**

**J OMANGE, J
JANUARY 27, 2026**

BETWEEN

**CHRISTINA NJOKI NJENGA (SUING THROUGH GEORGE NGIGE NJENGA
UNDER POWER OF ATTORNEY) PLAINTIFF**

AND

**IZAAK MWANGI 1ST DEFENDANT
IBRAHIM SHUNU 2ND DEFENDANT
HASSAN SHONO TULU 3RD DEFENDANT
THE CHIEF LAND REGISTRAR 4TH DEFENDANT
THE HON ATTORNEY GENERAL 5TH DEFENDANT**

RULING

1. This matter comes up for determination of the Plaintiffs application dated 2nd October 2025. The brief facts of this case is that the 1st Defendant filed a case at the Milimani Commercial Court No CM 10084 of 2018 seeking injunctive orders against three individuals. The court granted interim injunctive orders in favour of the 1st Defendant who was the Plaintiff in that matter. In the meantime the Plaintiff who had filed this suit learned of the other suit and filed an application seeking to be enjoined therein. The court allowed her application and directed the 1st Defendant who was the Plaintiff to serve her with pleadings. It is the Plaintiffs case that the 1st Defendant did not serve her and opted instead to withdraw the application. The Plaintiff is now before this court seeking injunctive orders as the 2nd and 3rd Defendants who allege the 1st Defendant sold them the suit property have commenced construction.
2. The 2nd and 3rd Defendants dispute the allegations by the Plaintiff that she did not sell the suit property and insist that they are bona fide purchasers who should be allowed to develop their property which they obtained legally.



3. Both counsels filed detailed submissions and authorities which this court has had occasion to consider. The sole issue for determination is whether this court should grant the injunctive orders as sought. The law on grant of interlocutory injunctions is set out under Order 40 Rule 1 (a) and (b) of the Civil Procedure Rules as follows:

“Where in any suit it is proved by affidavit or otherwise –

- a. That any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree; or
- b. That the defendant threatens or intends to remove or dispose of his property in circumstances affording reasonable probability that the Plaintiff will or may be obstructed or delayed in execution of any decree that may be passed against the defendant in the suit;

the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale removal, or disposition of the property as the court thinks fit until the disposal of the suit or until further orders.”

4. The principles for grant of injunction are well settled by the locus classicus of *Giella Vs Cassman Brown & Company Limited* [1973] E.A. 358., where the court stated thus:

“First, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury, which would not adequately be compensated by an award of damages. Thirdly, if the court is in doubt, it will decide an application on the balance of convenience.”

5. This court is thus required to determine whether the applicant has satisfied the three conditions for grant of injunction. In *Nguruman Limited Vs Jan Bonde Nielsen & 2* the Court of Appeal had this to say on prima facie case ; “ The party on whom the burden of proving a prima facie case lies must show a clear and unmistakable right to be protected which is directly threatened by an act sought to be restrained, the invasion of the right has to be material and substantive and there must be an urgent necessity to prevent the irreparable damage that may result from the invasion”

6. In the instant case the Plaintiff challenges the title that passed to the 2nd and 3rd Defendants on the grounds that she was unwell and in the ICU at the time it is alleged that she sold it to the 1st Defendant. The 2nd and 3rd Defendant on their part insist the sale was valid. Given the rival claims of the Plaintiff and the Defendants on the ownership of the suit property, I find that the Plaintiff has a case that warrants hearing by this court. Damages would not provide adequate remedy if the property were developed or sold to other parties who would then be enmeshed in the court proceedings. I find that the balance of convenience lies in favour of granting the injunction.

7. The application is allowed in the following terms;

- a. An order of temporary injunction is hereby issued restraining the Defendants by themselves, their servants, agents, employees or any other person or persons claiming through them or on their behalf either jointly or severally developing , selling or transferring L.R NO. 36/I/216 pending the determination of the suit.



b. Costs shall abide the outcome of the main suit.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 27TH JANUARY 2026.

JUDY OMANGE

JUDGE

In the presence of:

N/A for the Plaintiff.

N/A for the Defendants.

Court Assistant – Peter.

