



REPUBLIC OF KENYA



KENYA LAW
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**Ngaru v Lenkoko & 4 others (Environment and Land Case
E086 of 2025) [2026] KEELC 154 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 154 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E086 OF 2025**

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

BETWEEN

OGELI KAKESHE NGARU APPLICANT

AND

MOSES LEYIOO OLE LENKOKO 1ST RESPONDENT

MARIASOLE PAKINE TENKEYA 2ND RESPONDENT

SIGMA SUPPLIES LIMITED 3RD RESPONDENT

LAND REGISTRAR KAJIADO 4TH RESPONDENT

HONOURABLE ATTORNEY GENERAL 5TH RESPONDENT

*(In respect of the Notice of Motion application dated
4th July 2025 seeking temporary injunctive reliefs)*

RULING

Introduction

1. This ruling pertains to the Notice of Motion application dated 4th July 2025. The application is brought under Section 1A, 1B, and 3A of the *Civil Procedure Act*, Order 40 rules 1 and 2, and Order 51 rule 1 of the Civil Procedure Rules 2010, alongside provisions of the *Land Registration Act* and Article 159 of *the Constitution* of Kenya 2010.
2. The Applicant, Ogeli Kakeshe Ngaru, seeks the following substantive orders:
 - a. Spent
 - b. Spent



- c. That upon inter parte hearing, the Honourable Court be pleased to grant interlocutory injunction restraining the 1st, 2nd and 3rd Respondents by themselves, their agents and/or employees or whoever is acting on their behalf from trespassing, encroaching, constructing, transferring, alienating, selling, conveying, charging, leasing or interfering in any manner whatsoever the parcels of land Kaputiei/South/3955 and Kaputiei/South/3954 pending the hearing and determination of the main suit.
 - d. That in the alternative the Honourable court be pleased to issue inhibition orders restraining the 1st 2nd and 3rd Respondents or through their duly appointed agents or servants and any person acting under their express instructions from dealing in any manner whatsoever with the suit properties Kaputiei/South/3955 and Kaputiei/South/3954 until the hearing and determination of the main suit.
 - e. Spent
 - f. That upon inter parte hearing the Honourable Court be pleased to order the 4th Respondent to cancel any unlawful transactions which has been effected by the 1st 2nd and 3rd Respondents in respect to the properties Kaputiei/South/3955 and Kaputiei/South/3954 and the property reverts back to the Applicant pending the hearing and determination of the main suit.
 - g. That the officer commanding Mashuuru police station, which is within the jurisdiction of the suit property do ensure compliance to the orders issued by the Honourable Court.
3. The application is supported by the affidavit of Ogeli Kakeshe Ngaru, sworn on 4th July 2025. The Applicant deposes that he was the original allottee of land parcel Kaputiei/South/1721, issued with a Certificate of Title on 11th October 2007. He asserts that in 2012, he agreed to sell only 100 acres of this land to the 1st Respondent, Marias Ole Pakine Tenkeya. To facilitate this specific transfer, the Applicant surrendered his original Certificate of Title to the 1st Respondent.
 4. The gravamen of the Applicant's case is an allegation of fraud against the Defendants. He claims to have discovered on 16th June 2025, through a green card search at the Kajiado Land Registry that the entire property (Kaputiei/South/1721) was transferred to the 1st Respondent without his consent on 29th March 2012.
 5. Further, the Applicant alleges that the land was subsequently subdivided into parcels 3954 and 3955 in 2014. Parcel 3954 was then allegedly transferred to the 2nd Respondent, Moses Leyioo Ole Lenkoko, in September 2020, and subsequently to the 3rd Respondent, Sigma Supplies Limited, in March 2021. The Applicant maintains that these transactions occurred without his knowledge or consent, prompting him to report the matter to Mashuuru Police Station on 21st June 2025 under OB No. 08/21/06/2025.
 6. The Application is opposed by the 1st, 2nd, and 3rd Respondents through their respective Replying Affidavits. The 1st Respondent, Marias Ole Pakine Tenkeya, in his affidavit sworn on 30th July 2025, raises an objection that the suit and the application are statute-barred, asserting that the transaction in question was completed over 15 years ago. He denies the allegations of fraud and maintains that the 1st, 2nd, and 3rd Respondents are innocent purchasers for value without notice of any alleged defect in title.
 7. The 2nd Respondent, Moses Leyioo Ole Lenkoko, opposes the application on the grounds that he lawfully purchased 100 acres (Kajiado/Kaputiei-South 3954) from the 1st Respondent pursuant to a valid sale agreement. Similarly, the 3rd Respondent, Sigma Supplies Limited, through its director



Dipak Shah, contends that it is a bona fide purchaser for value without notice and seeks the dismissal of the application. Both Respondents argue that they have heavily invested in the suit properties and that granting the sought orders would cause them grave economic loss.

8. The 3rd Respondent, Sigma Supplies Limited, through its Director Dipak Shah, opposes the application on the grounds that it is a bona fide purchaser for value without notice of any alleged defect in the title. The 3rd Respondent asserts that it lawfully acquired land parcel Kaputiei/South/3954 from the 2nd Respondent after conducting due diligence and a search at the Kajiado Land Registry, which confirmed the 2nd Respondent as the registered proprietor. It is further deposed that the company has since taken possession and invested heavily in the property. Consequently, the 3rd Respondent contends that granting the sought orders would cause it grave economic loss and unfairly interfere with its constitutionally protected property rights, maintaining that the Applicant's claims are an afterthought following a transaction completed several years ago.
9. In response to these assertions, the Applicant filed a Further Supporting Affidavit sworn in December 2025. The Applicant reiterates that he only sold 100 acres out of the original 190 acres to the 1st Respondent and did not authorize the transfer of the entire parcel. He clarifies that his primary residence is in Sholinke, Kajiado East, which explains why he did not immediately discover the alleged fraudulent activities on the suit property. The Applicant maintains that the fraud was only discovered recently, thus justifying the timing of this legal action.

Directions

10. 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.

Issue for determination

11. The primary issue that arises for determination is whether the applicant has met the threshold for grant of the order of temporary injunction. Cancellation of titles as sought by the Plaintiff is by no standards an interlocutory application that can be granted at this stage.

Analysis and Determination

12. The principles for the grant of interlocutory injunctions were settled in *Giella vs Cassman Brown & Co. Ltd* [1973] EA 358, where the court stated that:

“The conditions for the grant of an interlocutory injunction are now, I think, well settled in East Africa. 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.”

13. These principles were further affirmed by the Court of Appeal in *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR, where the Court held that:

“In an interlocutory injunction application, the applicant has to satisfy the triple requirements to, establish his case only at a prima facie level; demonstrate irreparable injury if a temporary injunction is not granted; and any doubts as to (a) or (b) by showing that the balance of convenience is in his favour. These are the three pillars on which rests the



platform of order 40 Rule 1 (supra)... If prima facie case is not established, then irreparable injury and balance of convenience need no consideration.”

14. A prima facie case is one which raises a triable issue—one that is not frivolous or vexatious and which shows a real probability of success at the trial. While the Applicant alleges a fraudulent scheme dating back to 2012, the Court must weigh these allegations against the statutory protections afforded to registered proprietors.
15. Section 26(1) of the *Land Registration Act* provides:
 - “The certificate of title issued by the Registrar upon registration, or as the case may be, a certificate of lease shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner... and the title of that proprietor shall not be liable to be defeated except—
 - (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or
 - (b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”
14. In this instance, the 1st, 2nd, and 3rd Respondents are all currently or previously registered owners. The 3rd Respondent, in particular, has demonstrated that it acquired the land following a formal search and a valid sale transaction. The Applicant’s claim rests on bare allegations of fraud regarding a transaction that occurred over a decade ago. I note that the Plaintiff indeed admits having engaged in a transaction with the 1st Respondent.
15. At this interlocutory stage, without the benefit of a full trial to probe the validity of the registered documents, the Applicant’s assertions, unsupported by independent documentary evidence of the alleged “theft” of the extra 90 acres, fall short of establishing a prima facie case with a probability of success.
16. I am therefore of the considered view that the Applicant has failed to establish a prima facie case. The mere allegation of fraud, without more, cannot override the statutory presumption of a valid title under the *Land Registration Act* at this preliminary stage.
17. Having failed on the first limb of the *Giella vs Cassman Brown* test, the application must technically fail. Furthermore, the Respondents have demonstrated that they have taken possession and heavily invested in the suit properties. Granting an injunction at this stage would cause significant economic hardship to the parties, who, on the face of the record, appear to be bona fide purchasers. The Applicant, having stayed away from the property for several years, cannot now claim that an immediate, irreparable injury will occur if the status quo is maintained until trial. He has not demonstrated any change of circumstances or any action on the part of the Respondents to justify the issuance of the orders sought. The balance of convenience, therefore, tilts in favor of the Respondents.
18. It is only fair that the case proceeds to full trial as granting the injunctive reliefs sought at this stage would amount to de facto determination of the proprietary rights. The gravity of the fraud allegations raised by the Applicant and the robustness of the Respondents’ defense as bona fide purchasers are matters of fact that dictate a plenary hearing. To grant an injunction now on the basis of untested affidavits would be to prematurely adjudicate upon the validity of registered titles which the law presumes to be indefeasible.



19. Consequently, I find that the Applicant has not met the threshold for the grant of temporary injunctive reliefs. The Notice of Motion application dated 4th July 2025 be and is hereby dismissed. The interim orders (if any) previously granted are hereby vacated. The costs of this application shall be in the cause.

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. Nyangito for the Plaintiff/Applicant

Ms. Musa for the 3rd Defendant/Respondent

Ms. Muriuki for the 2nd Defendant/Respondent

N/A by the 1st, 4th and 5th Defendants

Court Assistant: Mpoye

