



Ringera & 3 others v Ngeera (Environment and Land Appeal E096 of 2025) [2026] KEELC 347 (KLR) (19 January 2026) (Ruling)

Neutral citation: [2026] KEELC 347 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND APPEAL E096 OF 2025**

**JO MBOYA, J
JANUARY 19, 2026**

BETWEEN

**CHARLES MUREGA RINGERA 1ST APPELLANT
ISAACK MWENDA NGEERA 2ND APPELLANT
GRACE M KURI 3RD APPELLANT
JOSEPH KINOTI RINGERA 4TH APPELLANT**

AND

LUCY KAIRUTHI NGEERA RESPONDENT

RULING

1. Before me is a Notice of Motion Application dated 18/12/2025 brought pursuant to the provisions of Order 42 Rule 6 of the Civil Procedure Rules, 2010 and all enabling provisions of the law; and wherein the Appellants/Applicants [herein after referred to as the applicants] have sought various reliefs. The reliefs sought by the Applicant are reproduced as hereunder:
 - i.Spent
 - ii. There be stay of execution and enforcement of the Ruling and the orders delivered on 16/12/2025, MCELC No. E121 of 2025, pending the hearing and determination of this appeal.
 - iii. Pending the hearing and determination of this Appeal, the Honorable Court be pleased to order that the status quo obtaining on the suit land known as Buuri/Ruuri/Rwarera/11082 be maintained.
 - iv. Costs of this Application be in the Appeal.



2. The instant application is premised on various grounds which have been highlighted at the foot thereof. In particular, the application is premised on the grounds that the Applicants have been in open, peaceful and continuous occupation of the suit property. The orders of temporary injunction that were granted by the lower court are bound to occasion substantial loss to the Applicants. Moreover, it has been posited that the order of temporary injunction, which was issued by the lower court is likely to culminate into eviction of the third [3rd] Applicant who is in occupation of the suit property.
3. The application is supported by the affidavit of Charles Murega Ringera [deponent] sworn on the 18.12.2025 and wherein the deponent has reiterated the grounds at the foot of the Notice of motion. Pertinently, the deponent posits that the orders of temporary injunction have the net effect of evicting the Applicants and in particular, the 3rd Applicant from the suit property.
4. The subject application is opposed by the Respondent vide replying affidavit sworn on the 12.01.2026 and wherein the Respondent has averred that same is the lawful and legitimate proprietor of the suit property. In addition, the deponent has averred that by virtue of being the registered owner of the suit property, same is entitled to absolute and exclusive possession thereto.
5. Additionally, the Respondent has contended that the despite being the lawful owner of the suit property, the Applicants have trespassed thereto and erected a structure thereon albeit without her consent or permission. Furthermore, the Respondent has posited that the Applicants have no color of right to and in respect of the suit property.
6. On the other hand, the Respondent has also averred that the orders of temporary injunction which were granted by the lower court are lawful and thus same ought not to be interfered with. In any event, it has been contended that the said orders were intended to vindicate the Respondent's rights to and in respect to the suit property.
7. The subject application came up for hearing on the 19.01.2026, whereupon the advocates for the parties canvassed their respective positions. Suffice it to state that learned counsel for the Applicants adopted the grounds at the foot of the application, reiterated the contents of the supporting affidavit and thereafter highlighted two [2] key issues, namely: the Applicants are disposed to suffer substantial loss unless the orders sought are granted; and the Applicants have since deposited security for the due performance of the decree that may ultimately ensue.
8. Learned counsel for the Respondent adopted the contents of the replying affidavit sworn on the 12/01/2026 and thereafter highlighted four [4] key issues. The issues highlighted by / on behalf of the Respondent are: the Respondent is the lawful owner of the suit property; the Respondent is entitled to exclusive possession and occupation of the suit property; the actions of the Applicants constitute trespass; and the orders of temporary injunction were lawfully granted.
9. Having reviewed the application; the supporting affidavit; the replying affidavit in opposition thereto; and the oral submissions which were ventilated on the behalf of the parties, I come to the conclusion that the determination of the subject application turns on three [3] key issues, namely; whether the Applicants have established sufficient cause; whether the applicants shall be disposed to suffer substantial loss; and the nature of security [if at all] to be provided in the event of grant of the orders sought.
10. Regarding the first issue, it is important to highlight that the Applicants herein have since filed an appeal before this court. The appeal before hand seeks to challenge the issuance of an order of temporary injunction granted by the subordinate court and whose effect is to restrain the Applicants



from entering upon, remaining on or otherwise interfering with [sic] the Respondent 's rights over the suit property.

11. The appeal before hand was timeously filed. For good measure, the ruling under reference was rendered on the 16.12.2025 whereas the memorandum of appeal was filed on 18.12.2025. Instructively, the appeal was filed within the prescribed timelines. [See the provisions of section 79G of the [Civil Procedure Act](#)].
12. Moreover, the memorandum of appeal under reference raises pertinent issues, including whether an order of temporary injunction can issue or be granted as against a person [applicants], who are admittedly in occupation of the suit property. There is also the aspect that pertains to whether the order of injunction amounts to a disguised eviction albeit at an interlocutory stage. Suffices to state that the subject appeal is ex facie arguable. In this regard, I hold the view that the Applicants have established a sufficient cause in the manner stipulated by the provisions of Order 42 Rule 6 [1] of the Civil Procedure Rules.
13. What constitutes sufficient cause has been the subject of various court decisions. In the case of Wachira Karani v Bildad Wachira [2016] KEHC 6334 (KLR), the court the concept as hereunder:

sufficient cause" is an expression which has been used in large number of statutes. The meaning of the word "sufficient" is "adequate" or "enough", in as much as may be necessary to answer the purpose intended.

Therefore the word "sufficient" embraces no more than that which provides a platitude which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case and duly examined from the view point of a reasonable standard of a curious man.

In this context, "sufficient cause" means that party had not acted in a negligent manner or there was want of bona fide on its part in view of the facts and circumstances of a case or the party cannot be alleged to have been "not acting diligently" or "remaining inactive." However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously"
14. Turning to the question of substantial loss, I beg to state that the orders of temporary injunction are ordinarily intended to avert an event which is imminent or threatened. Instructively, an order of temporary injunction cannot issue when the event has occurred. In this regard, the temporary injunction could very well issue to avert threatened trespass. However, the moment it transpired that the Applicants had already [sic] trespassed, then an order of temporary injunction could not issue. [See the holding in the case of Kenya Power & Lighting Company Limited Versus Sheriff Molana Habib [2018] eKLR].
15. Secondly, the issuance of an order of temporary injunction against the Applicants [who are admittedly in occupation] of the suit property technically translates to an order of eviction. Simply put, even though the lower court granted an order of temporary injunction, the ripple effect of the order is to achieve eviction. Such an order, is likely to occasion grave consequences and hence I am convinced that the substantial loss shall accrue/arise.
16. It is important to point out that substantial loss is the cornerstone to the grant of an order of stay of execution pending the hearing and determination of an appeal.



17. In the case of Kenya Shell Limited Versus Benjamin Karuga Kabiru and another 1986 eKLR, the Court of appeal [per Platt Ag JA- as he then was] stated thus:

It is usually a good rule to see if order XLI rule 4 of the Civil Procedure Rules can be substantiated. If there is no evidence of substantial loss to the applicant, it would be a rare case when an appeal would be rendered nugatory by some other event. Substantial loss in its various forms, is the corner stone of both jurisdictions for granting a stay. That is what has to be prevented.

18. Without belaboring the point, I come to the conclusion that the Applicants shall suffer substantial loss. This imminent loss, ought to be averted during the pendency of the appeal. Otherwise, there is no gainsaying that the appeal may very be rendered academic and of no utilitarian value.

19. Finally, I beg to state that an applicant who has established a basis for the grant of an order of stay of execution pending appeal [like in the instant case] is obligated to provide such security as the court may decree. I am alive to the fact that the Respondent herein already has a ruling; and order in her favour. To this end, the Respondent is entitled to partake of fruits of the ruling.

20. On the other hand, it is not lost on me that the applicants, are exercising their undoubted right of appeal in accordance with the provision of Article 48 and 50 of *the Constitution* 2010. For good measure, their right of appeal ought to be vindicated. [See the holding in the case of Butt Versus Rent Restriction tribunal [1979] eKLR].

21. Flowing from the foregoing, a court of law is enjoined to undertake a delicate balancing act, in an endeavor to preserve the competing rights of parties namely; the successful party's right to partake of the fruit[s] of the Judgment[ruling] vis a viz the Applicants' undoubted pursuit of appeal.

22. In the premises and doing the best I can, I find and hold that the Applicant[s] herein are obligated to provide security. In this regard, I decree that the Applicants shall deposits the sum of Kshs. 150,000 only with the Deputy Registrar of the court; and which sum shall be held by the Deputy Registrar on account of security pending the hearing and determination of the appeal.

23. For the avoidance of doubt, the sum of Kshs. 150,000/= only, which has since been deposited with the court in compliance with the directions issued on the 31.12.2025, shall operate and be held as security.

Final Disposition.

24. From the foregoing analysis, it is apparent that the Applicants' have satisfied and met the conditions underpinning the grant of an order of stay of execution pending the hearing of the appeal in line with the provisions of Oder 42 Rule 6[2] of the Civil Procedure Rules 2010.

25. In the premises and for the reasons alluded to, the final orders of the court are as hereunder:

- i. The Application dated 18.12.2025 be and is hereby allowed.
- ii. There be and is hereby issued an order of stay of execution of the ruling and order of the lower court dated the 16.12.2025 pending the hearing and determination of the Appeal.
- iii. The Applicants shall deposit the sum of Kshs. 150,000 only with the Deputy Registrar of the court on account of security for the due performance of the decree that may ultimately ensue.
- iv. For avoidance of doubt, the sum of Kshs. 150,000 only, which was deposited in line with the directions of the court issued on 31.12.2025 shall be held by the Deputy Registrar as security in satisfaction of clause [iii] hereof.



v. The Costs of the Application shall abide the outcome of the Appeal.

26. It is so ordered.

DATED SIGNED AND DELIVERED AT MERU ON THE 19TH DAY OF JANUARY, 2026.

OGUTTU MBOYA, FCIArb; CPM [MTI-EA].

JUDGE

In the presence of:

Hussein – Court Assistant

Miss. Riungu for the Appellants/Applicants

Mr. Ondago for the Respondent.

