



REPUBLIC OF KENYA



**Ngusur & another v Supeet & 6 others (Environment and Land Case E158 of 2025) [2026] KEELC 607 (KLR) (3 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 607 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND CASE E158 OF 2025**

**J OMANGE, J**

**FEBRUARY 3, 2026**

**BETWEEN**

**JOHN MASEK NGUSUR ..... 1<sup>ST</sup> PLAINTIFF**

**NELSON MANTINA MARIAS ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**STANLEY MALAYEN SUPEET ..... 1<sup>ST</sup> DEFENDANT**

**PETER SASINE SUPEET ..... 2<sup>ND</sup> DEFENDANT**

**EMMANUEL NANYOK SUPEET ..... 3<sup>RD</sup> DEFENDANT**

**ALFRED SAMURIA SUPEET ..... 4<sup>TH</sup> DEFENDANT**

**MOSES SITAT MUSHORO ..... 5<sup>TH</sup> DEFENDANT**

**ANNAH KERONWA SUPEET MUSHORO ..... 6<sup>TH</sup> DEFENDANT**

**ISAAC SANCHA SUPEET ..... 7<sup>TH</sup> DEFENDANT**

**RULING**

1. Vide application dated 26<sup>th</sup> November 2026 the applicants who are the administrators of the estate of Oriminis Marias Ngusur seek various injunctive reliefs over Kajiado Kipeto 118 and Kajiado Kipeto 2362. The Plaintiffs aver that Kajiado Kipeto 118 was illegally transferred into Kajiado Kipeto 2362. The Plaintiffs argue that this sub division was illegal and done without the knowledge or consent of their deceased father who was the owner of 466 acres some of which have already been transferred illegally.
2. On the other hand, the Respondents argue that the suit properties belonged to their late father Supeet Mushoro. That there are ongoing succession proceedings which have not been disclosed to the court by the Plaintiff/ Applicants.



3. Counsel for the Applicant urged the court to grant the application as the Respondents have not denied occupation of the suit properties. On the other hand, counsel for the Respondent argued that the Defendants are non suited as Kajiado/ Kipeto 118 is only mentioned once. Further that the Defendants had inherited the properties in question where they have stayed for over 30 years through a Succession cause which is still ongoing.
4. Having considered the pleadings and the oral submissions by counsel, the twin issues for determination are; Whether the application is barred by the pending succession cause Whether the application for temporary injunction is merited
5. The Defendants argue that since there is a pending succession matter which had revoked the earlier grant, the Plaintiffs ought to pursue their remedies there and that this Court should decline to entertain the Application. On the other hand, the Plaintiffs argue that the issue at hand is not distribution of the estate but the title which was irregularly transferred, an issue which can only be addressed in the ELC Court.
6. This Court is alive to the principle that parallel proceedings ought not to be encouraged as they can result in inconsistent findings. However, at this stage, the Plaintiffs seek preservation orders to safeguard the suit property so that substratum of the suit is not lost before the determination of the rights of the parties.
7. I note that succession proceedings will be restricted to the administration and distribution of the deceased's estate, while the dispute before this court relates to validity of title, alleged irregular transfer, and protection of land which are issues that can only be determined by this Court.
8. 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.”

9. 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.”



10. 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”
11. A prima facie case is not necessarily one that must succeed at trial. It is one which, on the material presented, discloses an arguable right that calls for an answer and protection pending the answer.
12. In the present matter, the Plaintiffs have placed before Court documentation in support of their claim that the suit property emanated from their late father and that subsequent dealings may have resulted in subdivision and transfer into the Defendants’ names. The Plaintiffs have attached mutation forms, which on their face suggest that the land underwent subdivision and/or boundary alterations leading to the creation and/or delineation of resultant parcels.
13. At interlocutory stage, this Court is not in a position to make findings on the authenticity, legality, or probative weight of those mutation forms, nor on the ultimate validity of the resultant titles. Nonetheless, the existence of mutation forms is important as it illustrates that there were dealings on the land some attributed to their late father which the Plaintiffs question.
14. Lastly the fact that there are Succession proceedings where a grant has been revoked is evidence that the estate is not yet settled and should be afforded the protection envisaged by the law.
15. For these reasons I am satisfied the Plaintiffs have established an arguable case. Irreparable harm would result if the land is allowed to pass to other parties while there is serious contestation on ownership. I therefore find that the balance of convenience lies in favour of preserving the status quo. As such I make the following orders;
  - a. Temporary injunction is hereby issued restraining the Defendants/Respondents, their agents, servants and/or any person acting on their instructions from, transferring, charging, selling, leasing, subdividing, Kajiado/ Kipeto/ 118 resultant sub divisions including but not limited to Kajiado / Kipeto/ 2362 plot 140,141 and 142 pending the hearing and determination of the suit.
  - b. For avoidance of doubt, the above orders are meant to preserve the estate and are made without prejudice to the succession proceedings and/or the mediation process if any directed therein; Indeed, the parties who are family members are encouraged to explore mediation.
  - c. It is also clarified that this is not an eviction order
  - d. The parties shall comply with Order 11
  - e. Costs shall abide the outcome of the main suit

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 3<sup>RD</sup> DAY OF FEBRUARY 2026.**

**JUDY OMANGE JUDGE.**

In the presence of:

Mr. Ochieng for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> Defendants.



Mr.Katunga Mbuvi for Plaintiffs.

Peter – Court Assistant.

