



**Wamalwa v Ekirapa (Environment and Land Miscellaneous Application  
E002 of 2022) [2026] KEELC 627 (KLR) (11 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 627 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KITALE  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E002 OF 2022  
CK NZILI, J  
FEBRUARY 11, 2026**

**BETWEEN**

**BEATRICE WAMALWA ..... PLAINTIFF**

**AND**

**ALBERT ALEXANDER EKIRAPA ..... DEFENDANT**

**RULING**

1. Before the court is an application dated 11/12/2025, brought by the plaintiff. He seeks a stay of proceedings and leave to file and rely on additional documents, namely, Grant No. IR 10965 (L.R. No. 8699). The reasons given are contained on the face of the application and in a supporting affidavit of Beatrice Wamalwa, sworn on 11/12/2025.
2. It is deposed that whereas the matter was scheduled for hearing on 15/12/2025, she had applied for the said grant from the lands registry, but was only released to her on 11/12/2025. It is deposed that the exhibit is crucial and indispensable to the suit to confirm the existence, particulars, and the proprietorship details of L.R. No. 8699/1, matters that are directly in issue in the suit.
3. It is deposed that it is in the interest of justice to grant the orders sought; otherwise, her claim will be prejudiced.
4. Whereas the respondent was ordered to file a replying affidavit by 20/1/2026, it appears none has been filed.
5. The principles to consider in not filing documents alongside the statement of plaintiff, defence, or by the pretrial conference, or before the hearing date include: a reason for the delay, relevance of the document, and the prejudice to be suffered by both the plaintiff and the defendant. The court reserves the discretion to admit late filing.



6. The plaintiff came to court through an originating summons dated 8/2/2022, seeking a declaration that 10 acres out of L.R. No. 8699/1 belong to her out of an aborted sale agreement dated 4/6/2007. The copy of records, as required by law, was not attached to the originating summons as amended, yet it is a prerequisite under the *Limitation of Actions Act*.
7. In a ruling dated 5/2/2025, this court allowed for an amendment of the originating summons, following subdivision of L.R. No. 8600/22 and transfer to a third party. It was based on an alleged copy of a current search and survey report dated 5/10/2022. A copy of a title for IR 121938 dated 22/10/2022 was attached.
8. In an earlier application dated 5/2/2025 for contempt of court, the plaintiff, in an affidavit sworn on 5/2/2025, referred to a survey conducted on 7/10/2024 and a change of status of the land regarding L.R. No. 8699/22 and subdivision into various portions. She attached a certificate of title No. 121938 dated 22/10/2024.
9. This court delivered a ruling on 5/2/2025 for joinder and listed the matter for case conference on 1/4/2025. On 1/4/2025, parties were ordered to fully comply with Order 11 of the Civil Procedure Rules. A mention date for 12/6/2025 was issued. On 12/6/2025, the plaintiff told the court that she had not complied due to some administrative challenges. She did not mention the nature of the same.
10. Nevertheless, parties were given two weeks to comply. A mention was given for 8/7/2025 to fix a hearing date. On 8/7/2025, the plaintiff told the court that she had fully complied with Order 11 of the Civil Procedure Rules and was to call four witnesses. The hearing was set for 6/10/2025.
11. When the matter was called up on 6/10/2025, the court was told that the plaintiff was not ready to proceed, since she was unwell. The communication had been relayed on a weekend when the defendant had already secured travel arrangements. The court adjourned the matter due to the sickness, for 15/12/2025.
12. When the matter came up on 15/12/2025, the matter could not proceed due to the application now before the court, which was filed almost on the eve of the hearing. Learned counsel for the applicant told the court that the documents they wanted to introduce were not in their possession at the filing of the suit. The application had been served late, hence learned counsel for the defendant said that he had not sought instructions from his client.
13. In the application and the supporting affidavit, there is no evidence since 2022, when this suit was filed, when the plaintiff sought the additional documents from the land registry generally and in particular, which land registry in Kenya.
14. Access to documents held by the state is a constitutional right. The date when the document was issued to the applicant by the land registry is not clear, whether it was 2/10/2024 or 2025. The relationship between this document and the L.R. No. 8699/22, which the plaintiff seeks by the doctrine of adverse possession as per the originating summons dated 5/2/2025, is not clear. What was attached to the supporting affidavit is a certificate of title for L.R. No. 121938 dated 22/10/2024.
15. Since the amendment of the originating summons, following the ruling on 5/2/2025, and at the case conference dates as indicated above, the date of the first hearing on 6/10/2025 to the eve of the hearing of the matter on 15/12/2025, the applicant had not made any mention of any difficulties in procuring the said additional documents, and how they were crucial to the claim.
16. The applicant has not attached any single letter(s) of when the request was made between 9/2/2022 and 11/12/2025 when this application was filed. The attached document does not speak to L.R. No. 8699/1, which was captured in the sale agreement dated 4/6/2007. The schedule to the sale agreement



speaks to the original certificate of title No. 39058/1 and not the Grant No. IR 10965. It cannot, therefore, be true that the document is crucial to the claim alluded to as a nexus being drawn by the plaintiff.

17. The inordinate delay has not been sufficiently explained. Use of due diligence on the part of the plaintiff is not shown or substantiated.
18. The upshot is that the court declines to allow the application. It is not in the interest of justice to do so under the circumstances obtaining. It is dismissed with costs. The costs for the adjournment of the hearing that was occasioned to the defendants are granted to them.
19. Orders accordingly.

**RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 11<sup>TH</sup> DAY OF FEBRUARY 2026.**

In the presence of:

Court Assistant – Dennis

Teti for plaintiff present

Thiga for defendant present

**HON. C.K. NZILI**

**JUDGE, ELC KITALE.**

