



**Thika Grove Chania Limited & 2 others v County Government
of Murang'a & 2 others (Environment and Planning Petition
E002 of 2025) [2026] KEELC 1023 (KLR) (24 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 1023 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MURANGA

ENVIRONMENT AND PLANNING PETITION E002 OF 2025

MN GICHERU, J

FEBRUARY 24, 2026

**IN THE MATTER OF ARTICLES 2,3,10,19,20,21,22,23,40,47,159,174,196
AND 258 OF THE CONSTITUTION OF KENYA 2015**

AND

**THE LAND ACT, 2012, THE PHYSICAL AND LAND USE PLANNING
ACT, 2019, AND THE FAIR ADMINISTRATIVE ACT, 2015,**

AND

THE MURANG'A COUNTY LAND ALLOCATION AND LEASE MANAGEMENT ACT 2023

AND

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES
10,40,47 AND 196 OF THE CONSISTUTION OF KENYA 2010**

BETWEEN

THIKA GROVE CHANIA LIMITED 1ST PETITIONER

FINSCO CONSULTING AFRICA LIMITED 2ND PETITIONER

INTERNATIONAL CONTROL LIMITED 3RD PETITIONER

AND

THE COUNTY GOVERNMENT OF MURANG'A 1ST RESPONDENT

**THE COUNTY EXECUTIVE COMMITTEE MEMBER, LANDS, PHYSICAL
PLANNING & URBAN DEVELOPMENT, MURANG'A COUNTY & URBAN
DEVELOPMENT, MURANG'A COUNTY 2ND RESPONDENT**

**THE DIRECTOR OF PHYSICAL AND LAND USE PLANNING, MURANG'A
COUNTY 3RD RESPONDENT**



RULING

1. This ruling is on the notice of motion dated 3-12-2025. There is an earlier notice of motion dated 21-11-2025 but I suppose it has been abandoned in place of the one dated 3-12-2025 because its prayers are not as clear as those in the latter motion. The motion which is brought under Articles 22,23,40, 47, 165(3) (b) and (d) and 256 of *the Constitution* of Kenya, Rules 19, 23 and 24 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013 and all enabling provisions of law seeks the following residual orders.
 3. That pending the hearing and determination of the main petition, this Court be pleased to issue conservatory orders suspending the application of Section 7(6) of the Murang'a County Land Allocation and Lease Management Act, 2023 and paragraph 7 of the Third schedule of the *Physical and Land Use Planning Act* to the Petitioners pending development applications.
 4. That this Court be pleased to compel the Respondents to process the Petitioners' pending development applications.
 5. That the costs of this application be provided for.
2. The motion is based on eight (8) grounds and it is supported by an affidavit sworn by John Mwaura Kogi dated 21-11-2025. The gist of the grounds and the affidavit is as follows. Firstly, the Petitioners secured approvals for Phase 1 and Phase II under the 4.09 percent land reservation requirement creating a clear legitimate expectation that subsequent applications would be processed under the same regime. Secondly, the Respondents are unlawfully applying the Murang'a County Land Allocation and Lease Management Act, 2023 retrospectively. Thirdly, the demand for 10% surrender is unconstitutional, arbitrary, unreasonable and amounts to disguised compulsory acquisition without compensation. Fourthly, the Petitioners face imminent collapse of Thika Grove project if interim reliefs are not granted. Five, the constitutional rights of the Petitioners under Articles 40(2) and (3), 47,10,196 incorporating Articles 14 and 21 of the African charter and being violated. Six, vide a letter dated 10-3-2025, the Respondents deferred the Petitioners master plan approval on the basis that the Petitioners must surrender 10% of its private land for public amenities, pursuant to Section 7(6) of the Murang'a County Land Allocation and Lease Management Act 2023. Seven, the project was intended to be completed within twelve (12) months and the deferment of the approvals has caused substantial delays thereby exposing the Petitioners to significant and ongoing financial losses.

For the above and other reasons, the Petitioners pray for the orders in the motion.
3. The motion, together with the petition, were served upon the Respondents on 19-12-2025 according to the affidavit of Ezekiel Masai dated 23-1-2025. The Respondents, though served did not file any response to the motion dated 3-12-2025. The motion is therefore unopposed.
4. The Petitioners did not file any written submissions and it is now up to the Court to identify the issues for determination.
5. I have carefully considered the motion in its entirety including the grounds, the affidavit and the annexures. I find that the following issues arise.
 - i. Whether an order can be issued at this interlocutory stage suspending Section 7(6) of the Murang'a County Management Act 2023 and Paragraph 7 of the Third Schedule of *Physical and Land Use Planning Act*.



- ii. Whether an Act of Parliament can be suspended without the Petitioners serving the Attorney General and the Ministry of Lands and Planning and joining them as parties to the petition.
 - iii. Whether this Court can compel the Respondents to process the Petitioners' applications for development permission.
6. On the 1st issues, I find that at this interlocutory stage, I do not have sufficient evidence to enable me suspend the sections of the law cited above. I will need to be convinced why the said laws are unconstitutional. The affidavit in support of the motion does not demonstrate that the said laws should be suspended. I have seen the 1st Petitioners letter dated 17-9-2025 proposing that it should surrender only 4.09% as opposed to 100%. This is despite the fact that Murang'a County Land Allocation and Lease Management Act was enacted in 2023. The Petitioners have not adequately explained why the law enacted in the year 2023 should not apply to them in the year 2025.
 7. Regarding the 2nd issue, I find that the Hon. the Attorney General and the Ministry responsible for Physical Planning are necessary parties in this case if parts of the Physical Land Use and Planning Act will be suspended in this suit.
 8. As for the third issue, I find that this Court has no jurisdiction to compel the Respondents to issue the Petitioners with development permissions or to approve their applications. Sections 55-61 of the Physical Land Use and Planning Act deal with Development control and the only place the Environment and Land Court is mentioned is in Section 61(4) of the Act which provides as follows.

“An Applicant or an interested party who files an appeal under Subsection (3) and who is aggrieved by the decision of the committee may appeal against that decision to the Environment and Land Court.”
 9. Given the above scenario, I find that the Petitioners have not met the threshold for issue of conservatory orders as set in the case of Peter Gatirau Munya vs. Dickson Mwenda Kithinji Petition 2B/2014 Supreme Court of Kenya. The Applicants must demonstrate an arguable constitutional issue, a genuine threat to constitutional rights or values, likelihood of prejudice if the orders are not granted and that public interest favours the grant and the need to preserve the substratum of the petition.
 10. For the above stated reasons, I dismiss the motion dated 3-12-2025.

Costs in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 24TH DAY OF FEBRUARY, 2026

M.N. GICHERU JUDGE.

Delivered online in the presence of; -

Court Assistant – Jackline

Petitioners' Counsel – Miss Mwangi holding brief

Respondent's Counsel – N/A

