



# THE JUDICIARY



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MURANG'A**  
**ELCLOS E022 OF 2025**

**IN THE MATTER OF SECTION 7,17,38 OF THE LIMITATIONS OF ACTIONS ACT  
AND  
IN THE MATTER OF ORDER 37 RULE 7 OF THE CIVIL PROCEDURE ACT  
AND  
IN THE MATTER OF SECTION 30(f) AND (g) OF THE REGISTERED LAND ACT CAP 300  
REPEALED  
AND  
IN THE MATTER OF LAND PARCEL NO. LOC.10/WANJENGI/1049 MURANG'A  
BETWEEN  
ROBERT MUCHIRI(suing as administrator for the estate of  
Bethuel Mwangi ..... PLAINTIFF  
VERSUS  
ESTATE OF SALOME WATIRI MUTU .....DEFENDANT**

**JUDGMENT**

- (1) The Plaintiff in his originating summons dated 24-4-2025 seeks the following orders.
- (i) That the title to the whole of land parcel known as Loc.10/Wanjengi/1049 Murang'a, suit land situated in Murang'a County be deemed as extinguished through adverse possession in favour of the Plaintiff.**
  - (ii) That the Plaintiff be registered as the proprietor of the suit land.**
- (2) The originating summons is based on three(3) grounds and it is supported by the affidavit of the Plaintiff dated 24-4-2025. The Plaintiff's case is as follows. Firstly, he is the administrator of the estate of his father Bethuel Mwangi. He has been authorized by other beneficiaries to file this suit on behalf of his father's estate. Secondly in March 1990 Salome Watiri Mutu sold the suit land to the Plaintiff's father for Kshs. 35,000/=. This was on 6-3-1990. Kshs. 20,000/= was paid on the date of the agreement. The second installment of Kshs. 10,000/= was paid to Waweru Wangechi on 16-7-1998 while the final installment of Kshs 5000/= was paid on 7-12-1998. Thirdly both Salome Watiri Mutu and Bethuel Mwangi

are deceased and efforts to have the land transferred to the estate of Bethuel Mwangi have proved futile. Fourthly, the family of the late Bethuel Mwangi has been in occupation of the suit land since the date of the agreement and they have developed the same by constructions and cultivation. Fifthly, the family of the Respondent represented by David Mwangi Wangechi do not dispute the Plaintiff's ownership of the suit land. In fact the said David Mwangi has sworn an affidavit dated 11-12-2025 in which he admits that the Plaintiffs' father bought the suit land and occupied it in the early 1990s. The said David Mwangi Wangechi is introduced by the Chief of Wanjengi Location vide a letter dated 9-1-2026.

(3) I have carefully considered the summons in its entirety including the grounds, the supporting affidavit by the Applicant, the witness statements by Kiragu Motoroki and Joseph Mwangi Irungu, the documents and the replying affidavit by David Mwangi dated 11-12-2025. From the evidence on record which is uncontroverted I am satisfied that the Plaintiff's father entered the suit land in the year 1990 which is over 35 years from the date that the case was filed and this exceeds the statutory period of 12years provided for in Section 7 of the Limitation of Actions Act by over 23 years. Secondly, the possession by the Plaintiff's father and later by the family of the Plaintiff has been open and notorious, as evidenced by permanent developments and occupation. The possession has been exclusive and without the consent of the Respondent. There is no evident of interruption by the Respondent. The Defendant's failure to contest the claim further serves to strengthen that the Plaintiff's family's possession of the suit land has been uninterrupted and adverse. The title to the suit land held by Salome Watiri Mutu has been extinguished by operation of law under Section 17 of the Limitation of Actions Act. I find that the Plaintiff has proved the claim for adverse possession on a balance of probabilities.

I order as follows.

- (a) A declaration is hereby issued that the Applicant has acquired title to the suit land by way of adverse possession.**
- (b) The title held by Salome Watiri Mutu to the suit parcel is hereby extinguished.**
- (c) The Plaintiff shall be registered as the lawful proprietor of the suit land on behalf of the estate of his late father Bethuel Mwangi and not in his own right in place of Salome Watiri Mutu.**

**(d) The Deputy Registrar of this Court is authorized to execute all necessary instruments to effect the said transfer.**

**(e) No order as to costs.**

**It is so ordered.**

**Dated, signed and Delivered virtually at Murang'a this 3<sup>rd</sup> day of March 2026.**

**M.N. GICHERU  
JUDGE.**

**Delivered online in the presence of; -**

**Court Assistant – Jackline**

**Applicant's Counsel – Mr Kiti**

**Respondent – Absent**