



**Ole Samuria & 6 others v Kima & 16 others (Land Case  
E024 of 2025) [2026] KEELC 1348 (KLR) (9 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1348 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS  
LAND CASE E024 OF 2025  
MN MWANYALE, J  
MARCH 9, 2026**

**BETWEEN**

**PARSIAT OLE SAMURIA ..... 1<sup>ST</sup> APPLICANT  
SEMEYIOI OLE KISILU ..... 2<sup>ND</sup> APPLICANT  
JONATHAN NTORROR ..... 3<sup>RD</sup> APPLICANT  
YOHANA SARUNI NAIROYUA ..... 4<sup>TH</sup> APPLICANT  
MOSES OLOISIRIRI KIMEEI ..... 5<sup>TH</sup> APPLICANT  
LEONARD TAMPUSHI LESWAM ..... 6<sup>TH</sup> APPLICANT  
STEPHEN KISEREMA OLE SALATON ..... 7<sup>TH</sup> APPLICANT**

**AND**

**JULIUS KIMA ..... 1<sup>ST</sup> RESPONDENT  
JOHN OLE MATA KIMA ..... 2<sup>ND</sup> RESPONDENT  
JAMES KIMA ..... 3<sup>RD</sup> RESPONDENT  
PAANOI KIMA ..... 4<sup>TH</sup> RESPONDENT  
MOSES KIMA ..... 5<sup>TH</sup> RESPONDENT  
DANIEL MPAPA KARRI ..... 6<sup>TH</sup> RESPONDENT  
SAMWEL KIMA ..... 7<sup>TH</sup> RESPONDENT  
ARAMI KIMA ..... 8<sup>TH</sup> RESPONDENT  
STEPHEN KILISU ..... 9<sup>TH</sup> RESPONDENT  
OLOISHURU KIMA ..... 10<sup>TH</sup> RESPONDENT  
TAPAIYO KIMA ..... 11<sup>TH</sup> RESPONDENT**



KINANG'ORE KAPUNET .....	12 <sup>TH</sup> RESPONDENT
LEPARAN KARI .....	13 <sup>TH</sup> RESPONDENT
EMMILY ENE DANIEL KARRI .....	14 <sup>TH</sup> RESPONDENT
GEORGE OLE KIMA .....	15 <sup>TH</sup> RESPONDENT
NGATAT KAPUNE .....	16 <sup>TH</sup> RESPONDENT
SAMSON LEKOKWA KARRI .....	17 <sup>TH</sup> RESPONDENT

## RULING

1. Two applications, one dated 6<sup>th</sup> of October 2025, and second one dated 5<sup>th</sup> November 2025 came up for Ruling.
2. The orders sought in the first application are in terms as follows; -
  - i. Spent.
  - ii. Spent.
  - iii. The Respondents by themselves or by their agents, servants or otherwise howsoever be restrained from, entering upon, trespassing on, taking possession of, and/or otherwise dealing with property land registration numbers; Transmara/Sikawa/827 – 834 and Transmara/Sikawa/836, pending hearing and determination of this suit.
  - iv. The O.C.S Enoosaen police station to effect the orders herein.
  - v. The costs of this application be in the cause.
3. Grounds in support of the application, are interalia; -
  - i. That the Applicants state that they are the registered owners of the suit properties and have enjoyed quiet possession of the properties after they were issued with their respective titles in 2001.
  - ii. The Respondents without any colour of right invaded the suit properties destroyed erect fences and threatened the Applicants with evictions, and the Applicants reported to Enoosaen police station where it was recorded under occurrence book OB 11/2019/2025 and OB 07/9/2025.
  - iii. The Respondents have no rights and/or interests over the suit property.
4. In further support of the affidavit of the application is the supporting affidavit of Parsiat Ole Samuria who deponed the affidavit with the authority of the 2<sup>nd</sup> to 7<sup>th</sup> Applicants and reiterated therein the grounds in support of the application and has annexed copies of the titles for the suit properties, photographs of the destroyed fences, the copies of the OB reports made to Enoosaen police station.
5. The application was opposed by the Replying affidavit of Julius Kima the 1<sup>st</sup> Respondent who depones having authority of the 1<sup>st</sup> to 17<sup>th</sup> Defendant/Respondents to swear the affidavit on their behalf but no such authority was exhibited.
6. The deponent depones further that; -



- i. The titles to the suit properties were cancelled and/or revoked vide a Judgment of Kilgoris ELC in Civil Suit No. E001 of 2021 delivered on 26.02.2025, a fact verified by the Land Registrar Transmara vide a letter.
  - ii. That in view of the cancellation of the titles to the suit properties, the Applicants have no proprietary rights over the suit properties.
  - iii. The Applicants have never lived on the properties.
  - iv. The Respondents sought for the dismissal of the application.
7. The Applicants sought leave and filed a supplementary affidavit, in which the Applicants indicate that the judgment dated 26.02.2025 which cancelled the Applicants title was set aside vide the Ruling dated 13.10.2025 hence the orders cancelling the titles to the suit properties were vacated are no longer in force. He annexed a copy of the said order setting aside the judgment.
8. Having issued status quo order when the application dated 06.10.2025 come up for inter-parte hearing on 28<sup>th</sup> October 2025, the Applicants filed a contempt of court application dated 5<sup>th</sup> November 2025 which sought
- i. to cite the 2<sup>nd</sup>, 3<sup>rd</sup>, 6<sup>th</sup> and 9<sup>th</sup> Respondents for contempt of court and committal to civil jail for a period of six (6) months, until they purge the contempt by rebuilding the house they have demolished, abandoning the cultivation of Transmara/Sikawa/829 – 830 and re-establish the fence they destroyed.
  - ii. An order of a fine of Kshs.500,000 to be imposed for each contemnor.
9. The grounds in support of the application being that they were status quo orders issued on 28<sup>th</sup> October 2025 and the 2<sup>nd</sup>, 3<sup>rd</sup>, 6<sup>th</sup> and 9<sup>th</sup> Respondents ignored the orders by
- i. demolishing a house owned by the 6<sup>th</sup> Applicant.
  - ii. Cultivated on parcels registration No. Transmara/Sikawa/829 and 830.
  - iii. Destroyed the fence in land registration number Transmara/Sikawa/836.
  - iv. Constructed a structure.
  - v. That the contemnors had been served with the orders, which were clear and unambiguous, but were blatantly ignored by the contemnors.
10. The alleged contemnors filed a Replying affidavit sworn by John Ole Mata Kima the 2<sup>nd</sup> Respondent who swore the affidavit with the authority of 2<sup>nd</sup>, 3<sup>rd</sup>, 6<sup>th</sup> and 9<sup>th</sup> Respondent in which he depones that
- i. He never disobeyed the orders of the court, and that the 1<sup>st</sup> Applicant Parsiat Ole Samurai, together with Stephen Kiserema Ole Salaton and Emmanuel Kari, George Lekakeny Kari and Joshua Kipsaisala, demolished the house on 02.11.2015, and the Respondents did not stop the Applicants from demolishing their own house.
  - ii. That the fence was not erected by the Applicants, and fence was not demolished in August 2025 before issuance of the court orders.
  - iii. That it is the Applicants who grazed their cattle on the suit land and are in contempt as opposed to the Respondents, and Applicant who are in contempt.



11. On 28<sup>th</sup> of October 2025, the court issued directions on the filing of submissions in respect of the first application and slated the matter for 16.12.2025 to confirm filing of the said submissions, however on 16.12.2025 the court was on leave.
12. In the meantime, the 2<sup>nd</sup> application was filed and directions on filing of submissions in respect the same were issued on 10.12.2025.
13. Both the Applicant and the Respondent did not file submissions in respect of the 1<sup>st</sup> Application and the court shall determine the same without the benefit of the said submissions.
14. In respect of the 2<sup>nd</sup> Application both parties filed their submissions which the court has considered.
15. Arising from the first applications, the issues for determination
  - i. Whether or not the applications is merited and in deciding this issue the court shall determine
    - a. Whether threshold for grant of a temporary injunction has been met in respect of the first application.
  - ii. What orders sought to issue.
  - iii. Who bears the costs of the application.
16. In respect of the second application;
  - i. Whether the application is merited, and in determining this issue the court shall determine
    - a. Whether or not the threshold of contempt of court was established.
  - ii. What orders ought to issue.
  - iii. Who bears the costs of the application.

In respect of the first application the principle of injunctions were stated in *Giella Vs. Cassman Brown Ltd* “Firstly, 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 imperable 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.” with respect to a prima facie case, the same was defined in *Mrao Limited vs First American Bank of Kenya Ltd and Others (2003) KLR* as follows, “a prima facie case is one which on the material presented to the court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite part so as to call for an explanation or rebuttal from the latter.”
17. The question thus, is has the Applicant established a prima facie case, in terms of establishing a right that has been infringed. The Applicants, have exhibited copies of titles in respect of each Applicant and the corresponding parcel thereof.
18. The Respondent deponed that the said titles were no longer valid as they had been cancelled via the judgment rendered in Kilgoris ELC No. Civil Suit No. E001 of 2021, a copy of the judgment of Washe J. was annexed to support this position.
19. In the supplementary affidavit the Applicant state that the said judgment in Kilgoris ELC No. E001 of 2021 was set aside, and hence the orders cancelling the titles to the suit properties were set aside and the titles were restored. He has annexed a copy of the said order.



20. Indeed, the court holds that the Applicants view is right in that once the judgment in Kilgoris ELC E001 of 2021 was set aside, the effect was to restore the proprietary interest of the Applicants to the suit properties. In that regard being the Bonafide registered owners the Applicants have demonstrated proprietary interests and rights in the suit properties as conferred under Section 24-26 of the [Land Registration Act](#).
21. Having demonstrated proprietary interests, the Applicants have demonstrated a prima facie case with probability of success; and thus, the court shall inquire on the two other principles of *Giella Vs. Casman Brown*.
22. On whether damages are adequate reliefs, the Applicants have not sought for damages in the main suit but sought for eviction orders and delivery of vacant possession; - they have thus demonstrated that damages are inadequate.
23. On the last principle, the balance of convenience tilts in favour of the registered owners in occupation of the suit properties as the Applicants herein.
24. The Applicants having met the threshold for grant of an injunction are thus entitled to the reliefs of an injunction as sought as sought in the application, and the first application ought to be allowed.
25. With regard to the 2<sup>nd</sup> application, the contempt application, the elements to be proven in a contempt were stated in the decision in *North Tetu Farmers Co. Ltd Vs. Joseph Nderitu Wanjohi (2016) KECHC 7193*, the court quoted the South Africa decision of *Kristen Carla Burchell Vs. Barry Grant Burchell*, which gave the elements to be proven in order to succeed in a civil contempt proceedings, as follows; -
  - i. Terms of the order.
  - ii. Knowledge of these terms by the Respondent.
  - iii. Failure by Respondents to comply.
26. Applying the said elements in the present application; the terms of the order dated 28.10.2025, “maintenance of status quo, to mean, the persons in occupation to remain in occupation while Register of suit property to remain in name of the registered owner.  
  
The status quo order issued today is not meant to evict any one and/or enable anyone to occupy and invade the suit property.”
27. Were the terms of the order unambiguous, and clear, I find that the terms were not ambiguous and were very clear.
28. Did the Respondents know of the existence of the orders; it is deponed that the orders were made in the presence of the Respondents counsel Mr. Mwita Nyangi and that the Respondents were served, the Respondents have not denied knowledge of the orders. This element was equally proven.
29. On whether there is disobedience, the Applicant made specific allegations on the disobedience which the Respondent denied. The Respondent denied destruction of the house and attributed it to 1<sup>st</sup> Applicant, they denied bringing down the fence, and that the fence was brought down in August 2025. They denied cultivation of crops on the suit parcels.
30. Since the evidence was by way of affidavit evidence and noting that the burden of proof is higher in contempt cases, the court finds the disobedience of its orders was not proven by the affidavits as filed. The upshot is that the 2<sup>nd</sup> application does not succeed, having not met the threshold.



31. Having allowed the first application and noting that this matter is related to Kilgoris ELC Case No. E001 of 2021 the court hereby issues the following orders.
- i. The status quo orders issued on 28.10.2025 are hereby vacated and in place a temporary injunction issues in terms of prayer 3 of the application dated 06.10.2025.
  - ii. The Respondents shall vacate the suit properties within 2 weeks from today.
  - iii. Parties are at liberty to apply for consolidation of this suit with ELC E001 of 2021 and the requisite application shall be filed within 30 days from today.
  - iv. If parties elect not to have consolidation with ELC E001 of 2021, then this suit shall stand stayed pending hearing and determination of ELC E001 of 2021.
  - v. Mention on 28<sup>th</sup> of April, 2026 to confirm for further directions, on consolidation and/or stay of proceedings.

**DATED AT KILGORIS THIS 9<sup>TH</sup> DAY OF MARCH, 2026**

**HON. M.N. MWANYALE**

**JUDGE**

In the presence of

CA – Sylvia/Sandra/Clara

Mr. Kiprotich for Applicant

Mr. Mwita for Respondent

