



**Republic v Chief Magistrate, Engineer Law Courts & 3 others; Kanoga
& 3 others (Ex parte Applicants) (Judicial Review E009 of 2025)
[2026] KEHC 3032 (KLR) (Judicial Review) (10 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 3032 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
JUDICIAL REVIEW
JUDICIAL REVIEW E009 OF 2025
KW KIARIE, J
MARCH 10, 2026**

BETWEEN

REPUBLIC APPLICANT

AND

THE CHIEF MAGISTRATE, ENGINEER LAW COURTS 1ST RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTIONS 2ND RESPONDENT

AND

VINCENT NYINGI NDERITU INTERESTED PARTY

AND

THE HON. ATTORNEY GENERAL RESPONDENT

AND

JOHN GITAU KANOGA EX PARTE APPLICANT

GEORGE KIMANI EX PARTE APPLICANT

PAUL KIMANI NYORO EX PARTE APPLICANT

JESSE MBURU KIMANI EX PARTE APPLICANT

JUDGMENT

1. The applicants moved the court through an originating motion dated October 2, 2025. The application is brought Pursuant to Section 8 of the *Law Reform Act*, Sections 1A, 1B & 3A Civil Procedure Order 53 Rule (2) of the Civil Procedure Rules. They are seeking the following reliefs:



- a. an order of prohibition to prohibit the Director of Public Prosecution and the Chief Magistrate, Engineer Law Courts from prosecuting and hearing criminal charges in Republic vs Paul Kimani and Jesse Mburu Criminal Case Number E139 and 113 of 2025, R -vs. - Paul Kimani Nyoro E 127 of 2025, R -vs. - John Gitau Kanoga MCCR/E221/2025 be issued.
 - b. This Honourable Court allows a stay of the proceedings and action by the Director of Public Prosecution and the Chief Magistrates Court Engineer Law Court in MCCR/E127, E221, E139 and E113 involving R vs the 1st, 2nd, 3rd and 4th applicants.
 - c. The costs provided for this application.
2. The application is premised on the following grounds:
- a. The 1st, 2nd, 3rd and 4th ex parte applicants are the applicants and the complainant in the criminal cases before the Chief Magistrate's Court at Engineer Law Courts, being MCCR/E221/2025, E139 of 2025, E173 of 2025, E127 /2025 is Vincent Nyingi Nderitu, the respondent in the Court of Appeal at Nakuru Civil Application NO. E051 of 2023 involving a land dispute on parcels Nos. Nyandarua/Njabini/90 and Nyandarua/Njabini/615.
 - b. The Court of Appeal has since, on 26th July, 2024, issued orders allowing the Applicants/ Accused persons to remain on the suit properties pending the determination of the appeal.
 - c. The decision to charge the ex parte applicants with malicious damage to property and assault is tainted with illegality, irrationality and procedural impropriety, as indeed the Director of Public Prosecution and the Chief Magistrate Engineer Law Courts are acting without jurisdiction, ultra vires *the Constitution* of Kenya, 2010.
 - d. There is evident unfairness and non-observance of the rules of natural justice.
3. The interested party opposed the motion and filed the following grounds:
- a. Land parcel No. Nyandarua/Njambini/656, wherein judgment was delivered in his favour. His efforts to fence and reoccupy this land have faced resistance from the squatters and their sympathizers, who have on numerous occasions ganged up against him and his family.
 - b. Land Parcel No. Nyandarua/Njambini/615, which is the subject of the case at the Court of Appeal, where status quo orders were issued.
4. I have examined the application, the replying affidavit from the interested party, and submissions from both sides. The first point to note is that the applicants wrongly assume the trial magistrates cannot make correct decisions. This is a mistaken conclusion, as the magistrates are in a better position than this court to decide the issues at hand, for they will be seized of all the material evidence. The applicants need only present their arguments and evidence to the trial courts, which are presided over by competent judicial officers.
5. The application before me will not only convolute the issues but also delay the resolution of the disputes before the courts. The application, therefore, lacks merit and is accordingly dismissed.
6. Each party to bear its own costs.

DELIVERED AND SIGNED AT NYANDARUA, THIS 10TH DAY OF MARCH 2026

KIARIE WAWERU KIARIE

JUDGE.

