



**Muriuki v Lamu West Constituency, Roads Board & 2 others (Environment and Land Case E094 of 2025) [2026] KEELC 638 (KLR) (29 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 638 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MALINDI**  
**ENVIRONMENT AND LAND CASE E094 OF 2025**  
**EK MAKORI, J**  
**JANUARY 29, 2026**

**BETWEEN**

**FREDRICK WAHOME MURIUKI ..... PLAINTIFF**

**AND**

**LAMU WEST CONSTITUENCY, ROADS BOARD ..... 1<sup>ST</sup> DEFENDANT**

**WISTA SERVICES LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**KENYA RURAL ROADS AUTHORITY (KERRA) ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. By way of a Notice of Motion dated 23rd July 2025, the Plaintiff/Applicant moved this Honourable Court, inter alia, seeking orders for a temporary injunction to restrain the Defendants, their agents, servants, employees, or contractors from entering, constructing, excavating, or in any other manner interfering with the Plaintiff's parcel of land known as Lamu/Lake Kenyatta I/4061, pending the hearing and determination of this application and suit.
2. The application was supported by the Plaintiff's Supporting Affidavit, sworn on 23rd July 2025, and the Further Affidavit, sworn on 26th September 2025, together with the annexures thereto.
3. Upon being served, the 3rd Defendant filed a Replying Affidavit, sworn on 26th September 2025, through one Eng. Peter Mbabu Patrick denied liability and alleged that the road in question is an "unclassified road" within the County Government's mandate.
4. Directions were given that the application be canvassed by way of written submissions. I confirm receipt of submissions from the Applicants and the 3rd Defendants, with appreciation, as they went a long way toward resolving the issues raised in the application.
5. Arising from the foregoing, the issues I frame for this court's determination are whether, at this stage, an interlocutory injunction can be issued and who should bear costs.



6. The guiding principles for the grant of an interlocutory injunction are well settled in *Giella v Cassman Brown & Co. Ltd* (1973) EA 358, as cited in *Elizabeth Muthoni Hussein v Vikesh Jinit Shah* [2018] eKLR, where it was held that:

“The conditions for granting a temporary injunction in East Africa are well known and these are: First, the 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 irreparable injury which might 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.”

2. The Applicant avers that he has exhibited a Title Deed for the suit land, issued on 26th February 2013, thereby establishing ownership. He has further demonstrated possession and development, including a perimeter wall and cottages. Evidence has also been produced showing entry onto the suit land, demolition of the wall, and road construction activities. The Registry Index Map annexed confirms that no road exists through the suit land.
3. He avers that, because he has demonstrated ownership, he has established a prima facie case with a probability of success sufficient to warrant consideration of an interlocutory injunction (*Mrao Ltd v First American Bank of Kenya Ltd & 2 Others* [2003] eKLR) and that, if no injunction is granted, he stands to suffer irreparable loss that damages cannot compensate (*Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR).
4. That the Plaintiff is the registered proprietor and in possession of the suit land. The Defendants have provided no lawful justification for entering upon it. The balance of convenience, therefore, tilts in favor of preserving the suit land in the hands of its rightful owner pending trial.
5. On its part, the 3rd respondent avers that it is not responsible for the construction of the alleged road and that the road is unclassified and does not fall within its mandate. Nothing has been put forth to show that the 3rd respondent is responsible for any alleged damages, and the photographs adduced do not show that the 3rd respondent is undertaking the works.
6. Although the applicant has shown that it has a title document for the alleged site that is under road construction, the applicant has not shown which of the 1st and 3rd respondents is responsible for the construction, so the court cannot issue orders directed at either party.
7. The applicant ought to have done more to determine who is responsible for the works.
8. Consequently, at this stage, it will be challenging to issue an interlocutory injunction. The issues raised in the application can be addressed at the main hearing, together with trespass and damages.
9. Thus, the application dated the 23rd day of July 2025 is dismissed with no orders as to costs.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT NYERI ON THIS 29<sup>TH</sup> DAY OF JANUARY 2026.**

**E. K. MAKORI**

**JUDGE**

In the Presence of:

Mr. Bore for the Plaintiff

Mr. Chesaro for the 3<sup>rd</sup> Defendant



Kendi: Court Assistant

