



**Naibei & 2 others v Moss (Environmental and Land Originating Summons
E004 of 2026) [2026] KEELC 1565 (KLR) (17 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1565 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E004 OF 2026
CK NZILI, J
MARCH 17, 2026
IN THE MATTER OF THE LAND PARCEL NO. L.R.
NO. 1948/10
AND
IN THE MATTER OF THE LIMITATION ACT CHAPTER
22 LAWS OF KENYA
AND
IN THE MATTER OF THE CIVIL PROCEDURE ACT,
CAP 21 LAWS OF KENYA**

BETWEEN

JULIUS KITIYO NAIBEI 1ST APPLICANT

JULIUS K KIBOI 2ND APPLICANT

SAMSON CHEBRANGUT 3RD APPLICANT

AND

SUSAN MOSS RESPONDENT

RULING

1. Having looked at the application dated 3/3/2026, and the annexures in the two affidavits, the court finds that the applicants have disclosed a prima facie case as held in Mrao Ltd -vs- First American Bank of (K) Ltd & Others [2003] KLR 125.



2. Secondly, the applicants have established that they will suffer irreparable loss and damage in the absence of an injunction which is real, apparent, and imminent as held in *Nguruman Ltd -vs- Jan Bonde Neilsen & Others* [2014] eKLR.
3. As to the balance of convenience, it means the inconvenience to be caused to the applicants being more than the respondent, in the absence of an injunction as held in *Pius Kipchirchir Kogo -vs- Frank Kimeli Tenai* [2018] eKLR.
4. Order 40 of the Civil Procedure Rules and Section 63(e) of the *Civil Procedure Act* allow this court, where there is an apparent breach or threatened infringement of a contractual right or obligation, to order the preservation of the subject matter in danger of dissipation.
5. In this case, I find that the applicants are entitled to an order of temporary injunction restricted only to the acreage or size of land that they bought from the vendor and which they occupy, and no more.
6. The order shall last for one (1) year only. The DCI Endeless, to assist in compliance with the order.
7. Parties to comply with Order 11 of the Civil Procedure Rules and attend court on 12/5/2026, for a case conference.
8. Orders accordingly.

RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 17TH DAY OF MARCH 2026.

HON. C.K. NZILI

JUDGE, ELC KITALE.

In the presence of:

Court Assistant - Dennis

Mr. Khisa for the applicants

Respondents absent

