

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ELCOS NO 30 OF 2023

**JOSEPH KARANJA CHEGE (suing as the legal
representative of GEORGE CHEGE
KARANJA(Deceased).....APPELLANT**

VERSUS

**JOSEPH MBURU NJOROGE.....1ST
RESPONDENT**

**MELEWA RANCHING COMPANY LTD.....2ND
APPELLANT**

RULING:

The Application dated 20/11/2025, by the objectors seeks for orders of a stay of execution of the order of this Honourable Court issued herein on the 11/7/2024 pending the Hearing and determination of an objection filed by the 1st, 2nd and 3rd Objectors on the 19/11/2025 against the said Judgment and Decree. The same is based on the grounds that: -

1. By a Certificate of Confirmation of Grant issued by the High Court in Milimani P & A Succession Cause No. 2193 of 2014, the Objector acquired exclusive beneficial and legal interest in the whole of the property known as Title No. NYANDARUA/MKUNGI/6 which is in the process of sub-

division that was commenced by the late JOHN PETER KINUTHIA GATERI.

2. By an ex-parte Judgment and Decree issued by this Court on the 11th and 26th August 2024 respectively, the Appellant acquired Title to a portion of Title No. NYANDARUA/MKUNGI/6 which individual plots are now registered as Title Nos. NYANDARUA /MKUNGI/2853, 2854, 2855, 2856, 2857, 2858, 2859 and 2860.
3. The 1st ,2nd & 3rd Objectors are not dissatisfied and stand to suffer substantial loss if the ex-parte Judgment and Decree is to be executed as the Respondent is in the process of transferring Title in his own name and disposing off the same to 3rd parties.
4. The Objectors stand to be disinherited from the Estate of their late father John Peter Kinuthia Gateri unless this Court grants a stay of the ex-parte Judgment and Decree of 11/7/2024.

In the Supporting Affidavit of Wanjira Lydia Kinuthia, the 2nd Objector sworn on 20/11/2025, the said Wanjira claims that the Appellant herein is a son to a former employee of his father, Andrew Mwangi Kamau and the said Applicant sought for and obtained adverse possession from this Court.

The family of Andrew Mwangi Kamau stays on a portion given to them by the late Peter Kinuthia Gateri which is in a section of the farm where the late Andrew Kamau and his son are buried but that the family now claims adverse possession over other portions

of the Estate of the late Peter Kinuthia Gateri beyond what was allocated to him. This has interfered with the ongoing sub-division and the said Applicant is felling down trees from the said parcel of land without the approval and Consent of the Administrators of the Deceased's (Gateri's) Estate.

Accordingly, the ex-parte Judgment delivered on 11/7/2024 ought to be set aside and the matters be subjected to full trial.

In the Replying Affidavit of the Applicant, Daniel Kamau Mwangi sworn on 11/12/2025, the Applicant depones that the Application is bad in law, incompetent and an abuse of the Court process and the same should be struck out and/or dismissed with costs. It also is unmeritorious. A citation was filed in Nyahururu CM citation No.E090 of 2022 in respect to the Estate of John Peter Kinuthia Gateri against the family of the Deceased with Wainaina Kinuthia and George Githumbai as the Citees which Citation was served at the family business at MIDHILL HOSPITAL and received by the secretary at the reception who acknowledged receipt by signing the return copies after which the Citees on 21/11/2022 appointed and retained an Advocate by the name P.K. Njuguna & Co Advocates and informed the Court that the 2 were already the Administrators of the Deceased's Estate vide Nairobi HCC Succession Cause No. 2193 of 2014 and the Applicant thereafter filed this suit against the said Administrators.

The same Advocates P.K. Njuguna were again retained by the Applicant to defend them in this suit and the latter entered appearance but did not attend Court during the Hearing though

the Court was satisfied the Advocates were served and Judgment was delivered on 11/7/2024 and Decree issued on 26/8/2024 and even after the Decree was served upon the Defendants, no action was taken by the latter. By this time the property was still in the name of the late Gateri. And before execution all transfer documents were signed by the Registrar of the Court and even Consent of the Land Control Board obtained at Engineer Nyandarua South Land Control Board. This means that the prayers for stay of execution have been overtaken by events. L.R No. NYANDARUA/MKUNGI/6 no longer stands as the same was subdivided into L.R No. NYANDARUA / MKUNGI/2853 to 3249, a total of 397 plots.

He further said that before the late Gateri died he wanted to sub-divide his land L.R NYANDARUA/MKUNGI/6 after a dispute arose and there was filed land Dispute Tribunal Dispute No. 030 of 2005. Gateri was allowed to sub-divide NYANDARUA/MKUNGI/6 into NYANDARUA/MKUNGI/2853 to 3249. The same are now according to the Certificate of Confirmation in Nairobi H.C. Succession Cause No. 2193 of 2014 in the ownership of Wagawagi Holdings Ltd. The said properties are today registered in the name of the Applicant and that the current Application should now be dismissed with costs to the Applicant.

Having heard both sets of parties and submissions on their respective parts I have considered the matter and I am of the opinion that it is unfortunate that having filed an Appearance on behalf of the Respondents herein on the 17/7/2013 the firm of P.K

Njuguna & Co Advocates failed to proceed with the matter on their behalf not even to file a single pleading on their behalf. The sins of an Advocate, whatever it is should not be visited on the client. Parcel Nos. NYANDARUA/MKUNGI/2853 TO 3649 (inclusive) are part of the larger Estate of the late John Peter Kinuthia Gateri.

In the Confirmation of Grant, the same is wholly given to Wagawagi Holdings Ltd and not the Respondents herein who are the only ones who were served with the Citation and then with the summons to enter appearance in this case. Whereas the Respondents may be guilty of not having followed on the matter with their Advocates and therefore failed in defending the Estate of the Deceased contrary to Section 82 of the law of succession Act (CAP 160 Laws of Kenya), Wagawagi Holdings Ltd. which had already acquired the suit land way back on the 5/6/2023 and even before the transfer to the Applicant, then beneficiaries thereof must be protected and I therefore order that the Judgment/Decree dated 11/7/2024 are hereby set aside forthwith, the Defendant/Objectors be allowed to file Defence within the next 14 days in readiness for the hearing of the suit de novo. Costs of this Application to be in the Cause.

Ruling read and delivered at Nyandarua this 26th Day of March 2026.

MUGO KAMAU
JUDGE

In the Presence of: -

Court Assistant: Samson.

For the Plaintiff.....N/A.

For the Defendant.....Ms. Kimeto.