



**Central Kenya Limited v National Land Commission & 7 others (Land Case  
Petition E017 of 2025) [2026] KEELC 1830 (KLR) (23 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1830 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
LAND CASE PETITION E017 OF 2025**

**JA MOGENI, J  
MARCH 23, 2026**

**BETWEEN**

**CENTRAL KENYA LIMITED ..... PETITIONER**

**AND**

**THE NATIONAL LAND COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**KIAMBU COUNTY GOVERNMENT ..... 2<sup>ND</sup> RESPONDENT**

**FLORICULTURE INTERNATIONAL LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**THE CHIEF LAND REGISTRAR ..... 4<sup>TH</sup> RESPONDENT**

**THE DIRECTOR OF SURVEYS ..... 5<sup>TH</sup> RESPONDENT**

**DIRECTOR LAND ADMINISTRATION, STATE DEPARTMENT FOR  
LANDS ..... 6<sup>TH</sup> RESPONDENT**

**AND**

**DIRECTOR OF CRIMINAL INVESTIGATIONS ..... 1<sup>ST</sup> INTERESTED PARTY**

**ATTORNEY GENERAL ..... 2<sup>ND</sup> INTERESTED PARTY**

**RULING**

1. This dispute, enduring for over three decades, has moved through successive Courts and a variety of proceedings. The Court is thus called upon to examine the matter in the context of its extensive history, the reliefs sought and the principles of law that govern the exercise of its jurisdiction and discretion.
2. This dispute, spanning over three decades, has traversed the hierarchy of the Kenyan Judicial System. The 3<sup>rd</sup> Respondent/Applicant, via a Notice of Motion dated 19/01/2026, seeks to set aside conservatory orders issued on 30/10/2025 and to strike out the Petition dated 11/09/2025. The core of



the Applicant's argument is that the matter is Res Judicata, constitutes an abuse of the Court process, and that this Court lacks jurisdiction to entertain a matter already determined by Courts of concurrent and superior jurisdiction.

3. The Court is thus invited to consider a Notice of Motion dated 19/01/2026, in which the 3<sup>rd</sup> Respondent/ Applicant approaches this Court seeking, the following Orders:
  1. Spent.
  2. The Conservatory order made on 30<sup>th</sup> October, 2025 be and is hereby set aside and discharged.
  3. The Petition herein dated 11<sup>th</sup> September 2025 be and is hereby struck out and dismissed in limine.
  4. The costs of this Application and of the struck out and dismissed Petition be paid by the Petitioner.
4. The Application is premised on the grounds on the face of it and the Supporting Affidavit of Abdirashid Abdul Sharifow sworn on even date.
5. The Applicant depones that the Petitioner herein filed the Petition on 11/09/2025 asserting a right of ownership over property Land Reference Number Thika Municipality/ Block 8/ 264 (previously known as Land Reference Number 7705/2) (hereinafter 'the suit property') together with a claim of entitlement to the renewal of the lease for the property, as against the 3<sup>rd</sup> Respondent.
6. The Applicant contends that they are the registered owner and lawful occupier of the suit property, maintaining uninterrupted title and possession since 2/05/1995 when the property was duly transferred to them for valuable consideration.
7. The Applicant further asserts that the issues of ownership and possession between the Petitioner and Respondent have already been conclusively determined by the High Court on 24/04/1996 in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others, by the Court of Appeal on 17<sup>th</sup> December 1997 in Civil Appeal No 215 of 1996, Central Kenya Limited v Trust Bank & 4 Others and subsequently considered by the High Court on 14<sup>th</sup> February 2020 in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others.
8. The Applicant further asserts there is a pending Appeal by the Petitioner herein against the Judgment made on 14/02/2020 in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others being Civil Appeal No 284 of 2020 Central Kenya Limited v Trust Bank & 12 Others.
9. In view of these determinations, the Applicant contends that both the Petition and the conservatory order granted amount to an abuse of the process of the Court.
10. The Applicant further contends that, having regard to the prior decisions and the pending Appeal, the Court lacks a proper basis to entertain the instant Petition.
11. The Applicant therefore calls upon the Court, in the exercise of its equitable and judicial discretion, to set aside and discharge the conservatory orders issued on 30/10/2025 and to strike out and dismiss the Petition in limine.
12. The application is vehemently opposed by the Petitioner through the Replying Affidavit of Margaret Njeri Muiruri sworn on 27/01/2026. The Petitioner asserts that the instant application is misconceived and devoid of merit.



13. The Petitioner contends that the instant Petition raises a new cause of action, distinct from matters previously adjudicated, and asserts that the continuance of the conservatory orders would occasion no prejudice to the Applicant.
14. The Petitioner submits that the Court should resist any attempt to unsettle measures previously designed to safeguard the subject matter of the dispute. The Petitioner contends that, having been issued in the presence of both parties and not ex parte, the interim conservatory order is not amenable to challenge by way of the present application. In their submission, the proper course open to the Applicant is to pursue an Appeal against the order, a step which, they assert, the Applicant has already initiated by seeking leave to Appeal.
15. The Petitioner further asserts that no prejudice will be occasioned to the Applicant should the conservatory orders remain in force. The Petitioner asserts that the application to discharge the orders is without merit, lacking both legal and factual foundation, and ought to be dismissed with costs.
16. The application was canvassed by way of written submissions duly filed by the Applicant and the Petitioner.

### **Issues for Determination**

17. Having considered the application, the Affidavit in support together with the copious annexures thereto, the Replying Affidavit in opposition, the rival submissions and the relevant authorities, the following issues emerge for determination:
  - i. Whether this Court has jurisdiction to entertain the Petition in light of the prior determinations and the pending Appeal.
  - ii. Whether the Petition constitutes an abuse of the process of the Court.
  - iii. Whether the interim conservatory orders issued on 30/10/2025 ought to be set aside and discharged.

### **Analysis and Determination**

18. Before the Court may consider the discharge of conservatory orders or the striking out of the Petition, it must satisfy itself that it is properly seized of the matter. Jurisdiction is no empty ritual; it is the source and measure of the Court's lawful authority.
19. As was emphatically stated by the Court of Appeal in *Owners of the Motor Vessel Lillian S v Caltex Oil (Kenya) Ltd* [1989] KLR 106:

“Jurisdiction is everything. Without it, a Court has no power to take one further step. A Court without jurisdiction must cease to act and its proceedings are a nullity.”
20. In the light of this principle, it is imperative to examine the scope and limits of this Court's jurisdiction, as conferred both by *the Constitution* and the enabling statute, and its position within the hierarchy of Superior Courts.
21. The Environment and Land Court stands as a Superior Court of record, established under Article 162(2)(b) of *the Constitution* of Kenya, 2010, and vested with a status coequal with that of the High Court.
22. Parliament, giving effect to this constitutional mandate, enacted the *Environment and Land Court Act*, 2011, which vests the Court with original and appellate jurisdiction to adjudicate disputes



- touching upon the environment, the use and occupation of land, and questions of title throughout the Republic. In the exercise of this jurisdiction, the Court is empowered to grant interim and preservation orders, prerogative relief, declaratory remedies and such other relief as justice in each case may demand.
23. While the Environment and Land Court and the High Court occupy equal stations within the judicial hierarchy, Article 165(5)(b) of *the Constitution* circumscribes the High Court from matters falling within the specific domain of this Court, and neither Court holds supervisory authority over the other. Both, however, remain subject to the appellate oversight of the Court of Appeal and, ultimately, the Supreme Court, ensuring fidelity to *the Constitution* and the rule of law.
  24. The authority conferred upon this Court is neither unlimited nor abstract; it is exercised within defined bounds, circumscribed by the law and the appellate structure established by *the Constitution*.
  25. In matters properly before it, the Court may exercise its jurisdiction freely and fully; where those limits are exceeded, however, any attempt to adjudicate becomes impermissible, and the Court's actions risk being rendered nugatory.
  26. It is against this backdrop that the Court must first confront the threshold question of its lawful jurisdiction over the proceedings. The Applicant herein contends that this Court is not properly seized of the instant Petition.
  27. The Applicant submits that the questions of ownership and possession forming the substratum of the present dispute were conclusively determined in earlier proceedings before the High Court and by the Court of Appeal to wit: High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others, by the Court of Appeal on 17<sup>th</sup> December 1996 in Civil Appeal No 215 of 1996, Central Kenya Limited v Trust Bank & 4 Others and the High Court on 14<sup>th</sup> February 2020 in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others.
  28. Counsel for the Applicant submits that the question of ownership and possession of the suit property cannot be repackaged and relitigated under the guise of a Constitutional Petition.
  29. The Applicant contends that allowing the Petition to proceed would amount to the circumvention of those prior determinations and an impermissible attempt to relitigate settled matters.
  30. The Applicant argues that the pendency of an Appeal (Civil Appeal No 284 of 2020 Central Kenya Limited v Trust Bank & 12 Others) arising from the earlier decisions reinforces the impropriety of entertaining the Petition at this stage, as it risks creating conflicting findings and undermines the finality of judicial pronouncements.
  31. Counsel for the Applicant further relies on the decision of the Supreme Court in Kenya Hotel Properties Limited v Attorney General & 5 Others [2022]eKLR, wherein the Court underscored the inviolate principle that Courts cannot assume jurisdiction beyond the limits conferred upon them and observing that:

“... the rule of thumb is that superior Courts cannot grant orders to reopen or review decisions of their peers of equal and competent jurisdiction much less those Court higher than themselves.”
  32. In this context, the Applicant submits that the present Petition, seeking to revisit matters already adjudicated and pending Appeal, is beyond the jurisdiction of this Court and thus cannot properly be entertained.



33. The Petitioner, however, maintains that the instant Petition raises a distinct cause of action not previously determined, and that the pendency of an Appeal does not, in itself, divest the Court of jurisdiction to hear a properly instituted Constitutional claim.
34. I have taken the time to examine the decisions in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others, by the Court of Appeal on 17<sup>th</sup> December 1996 in Civil Appeal No 215 of 1996, Central Kenya Limited v Trust Bank & 4 others and the High Court on 14<sup>th</sup> February 2020 in High Court Civil Case No. 3590 of 1995 Central Kenya Limited v Trust Bank Limited & 12 Others.
35. Similarly, I have scrutinized the Memorandum of Appeal filed by the Petitioner herein against the Judgment and Decree of the Honourable Justice F. Tuiyot in Milimani Commercial & Tax Division Case Number 3590 of 1995 dated 14/02/2020. Notably, the Appeal is still pending.
36. While the Petitioner asserts that the Petition raises a separate cause of action, the Court must weigh this claim against the immutable principle that the questions central to these proceedings namely, ownership and possession of the suit property, have already been authoritatively adjudicated by competent Courts and are presently subject to Appeal.
37. Conversely, the Petitioner maintains that the Petition presents a fresh cause of action and that the existing conservatory orders are necessary to preserve the subject matter.
38. Indeed, the Supreme Court in Kenya Hotel Properties Limited (supra) clarified that the observations of Mutunga CJ (as he then was) in Jasbir Singh Rai & 3 Others v Tarlochan Singh Rai Estate of & 4 Others [2013] eKLR were never intended to suggest that the High Court may purport to reopen, overturn, or otherwise disturb final determinations rendered by Courts superior to it. The Court made it plain that no reading Rai licenses a Court of subordinate or concurrent jurisdiction to set at naught decisions conclusively pronounced by a higher Court, or to recommence proceedings de novo in respect of Appeals that have been finally determined. To hold otherwise would be to erode the hierarchy of Courts and unsettle the doctrine of finality that anchors the administration of justice.
39. The clarification by the Supreme Court in Kenya Hotel Properties Limited (supra) is dispositive in the present context. The determinations touching on ownership and possession of the suit property were rendered by Courts competent to pronounce upon them and now stand subject to appellate scrutiny.
40. This Court, being one of coordinate status with the High Court and subordinate to the appellate structure above it, cannot assume a supervisory or corrective mandate over those findings under the guise of constitutional adjudication. To do so would be to unsettle the judicial hierarchy and to trench upon matters reserved for the appellate process. The proper forum for any challenge to those determinations lies in the pending Appeal, not in a collateral proceeding before this Court.
41. The Applicant has demonstrated that the ownership of Land Reference Number Thika Municipality/Block 8/264 was litigated in HCCC No. 3590 of 1995, affirmed by the Court of Appeal in Civil Appeal No. 215 of 1996, and further addressed in a subsequent High Court Judgment on 14<sup>th</sup> February 2020.
42. The Petitioner's attempt to file a new Constitutional Petition on the same facts is an affront to the principle of Res Judicata and the hierarchy of Courts. This Court, being of equal status to the High Court, cannot sit on Appeal or Review of a High Court decision, nor can it interfere with matters currently seized by the Court of Appeal in Civil Appeal No. 284 of 2020.
43. Therefore, by entertaining this Petition, this Court would be overstepping its Constitutional bounds and violating the doctrine of finality.



- 44. In so holding, the Court is not unmindful of the submissions dated 4/02/2026 advanced on behalf of the Petitioner which ultimately sought to dismiss the application with costs. Learned Counsel urged the Court to consider whether the interim orders, having been granted after hearing both parties, ought to be disturbed; whether the Respondent’s conduct disentitles it to the discretionary relief sought; whether the plea of Res Judicata is applicable in this case; and whether the stringent threshold for striking out has been met. These are not peripheral considerations. In an ordinary case, they would demand careful and deliberate adjudication.
- 45. However, each of those questions raised by Counsel for the Petitioner presupposes that this Court is lawfully seized of the matter.
- 46. Jurisdiction is the foundation upon which all judicial authority rests. Where it is absent, the other issues set out by the parties cannot properly arise for determination.
- 47. Having found that the Petition invites this Court to assume a jurisdiction it does not possess, the Court cannot proceed to examine the other subsidiary issues.
- 48. It follows, therefore, that this Court is not properly seized of the Petition. The matters raised therein, insofar as they seek to revisit questions of ownership and possession already conclusively determined and presently under appellate consideration, fall outside the lawful competence of this Court. Any further inquiry into the merits would not only be unnecessary but impermissible.
- 49. Accordingly, the Court declines jurisdiction.
- 50. Having found that this Court lacks the jurisdiction to re-adjudicate matters already settled by the High Court and the Court of Appeal, and that the Petition is a clear abuse of the legal process, I make the following orders:
  - i. The Conservatory Orders made by this Court on 30/10/2025 are hereby set aside and discharged in their entirety.
  - ii. The Petition dated 11/09/2025 is hereby struck out and dismissed in limine.
  - iii. The Costs of the Application and the dismissed Petition shall be borne by the Petitioner and paid to the 3<sup>rd</sup> Respondent/Applicant.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT THIKA VIA MICROSOFT TEAMS VIDEO LINK THIS 23<sup>RD</sup> DAY OF MARCH 2026.**

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**MOGENI J  
JUDGE**

In the presence of:-

- ..... for Petitioner/Applicant
- ..... for 1<sup>st</sup> Respondent
- ..... for 2<sup>nd</sup> Respondent
- ..... for 3<sup>rd</sup> Respondent
- ..... for 4<sup>th</sup> Respondent



..... for 5<sup>th</sup> Respondent

..... for 6<sup>th</sup> Respondent

..... 1<sup>st</sup> Interested Party

..... 2<sup>nd</sup> Interested party

Melita..... Court Assistant

.....

**MOGENI J**

**JUDGE**

