



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Kenduiwo & another v Nyukuri (Environment and Land Case
59 of 2013) [2026] KEELC 2042 (KLR) (15 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2042 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT AND LAND CASE 59 OF 2013**

CK NZILI, J

APRIL 15, 2026

BETWEEN

RICHARD KIPROTICH KENDUIWO PLAINTIFF

AND

JOSEPH BETT APPLICANT

AND

DANIEL MUCHANGI NYUKURI DEFENDANT

RULING

1. By an application dated 22/1/2026, the applicant seeks to join the suit as a 2nd plaintiff and for leave or authority to execute the decree of this court dated 7/7/2015 against the judgment debtor. The reasons are contained on the face of the application and in a supporting affidavit of Joseph Bett, sworn on 22/1/2026. The applicant deposes that he is a duly appointed legal administrator of the estate of Sawe Bargerero Barjok as per the limited grant of letters of administration issued in Kitale HC Succession Cause No. 110 of 2013 on 14/8/2024, attached as JB-(1).
2. It is deponed that a judgment was entered in this suit on 7/7/2015 and a decree issued thereafter attached as JR-2(a) and (b), which was unsuccessfully appealed against by the respondent as per the judgment attached as JB-2(c).
3. The applicant deposes that despite the decree, the judgment debtor is yet to obey it, but instead has entered the suit land and commenced developments therein as per photographs attached as JB-3(a) and (b). The applicant terms the acts illegal and aimed at defeating the decree, which ordered the judgment debtor to vacate the land.



4. The applicant deposes that by a settlement agreement dated 3/11/2022, the judgment debtor was allowed to retain Plot No. 2964 in return for Kshs. 1,000,000/= as per annexure marked JB-(4), but the status of plot No. 2963 still stands as per the decree.
5. The applicant deposes that unless execution is undertaken, the continued developments will occasion irreparable harm and complicate the enforcement of the decree; otherwise, efforts to seek police assistance through OB No. 65/30/10/2024 at Kitale Police Station did not bear any fruit.
6. The applicant says that he has a direct and beneficial interest in the suit property, which is family land. The applicant at the hearing of the application said that the brother, who was the decree holder, passed on.
7. Despite service of the application upon the judgment debtor and a return of service sworn on 9/2/2026, no replying affidavit was filed by 12/2/2026.
8. The applicant relies on written submissions dated 9/2/2026 stating that Order 1 Rule 10(2) of the Civil Procedure Rules allows for joinder of parties, which threshold he has met. Reliance is placed on JMK -vs- MWM & Another [2015] eKLR. Further, the applicant cited Order 22 of the Civil Procedure Rules, Section 2 of the *Environment and Land Court Act*, and Section 3A of the *Civil Procedure Act*, that leave and authority to join and execute the decree of this court should be granted.
9. In Agnes Wanjiku Wangondu -vs- Uchumi Supermarket Ltd [2008] eKLR, the court held that under Orders 24 and 31 of the Civil Procedure Rules, there is no express requirement for substitution proceedings, with regard to execution of an order or decree.
10. In Mueni Kiamba -vs- Mbithi Kimeu Kimolo [2017] eKLR, the court held that matters that have reached the execution stage should be allowed to proceed without the need for substitution of deceased parties to ensure the overriding objective of the court, namely, the timely and expeditious determination of disputes is attained.
11. In this matter, the letters of administration ad litem dated 14/8/2024 are in respect of the estate of Sawe Bargero Barjok for inclusion in Kitale ELC No. 109 of 2015. The holders of the grant are two, namely Richard K. Kenduiwo and Joseph Bett. The said Sawe Bargero Barjok died on 21/9/2004.
12. The decree of this court is in favour of Richard Kiprotich Kenduiwo, who, all along, has been represented by the law firm of Kaosa & Co. Advocates. A notice to act in person by the applicant is not before the court. An authority to act for the co-holder of a limited grant ad litem is not before the court. An authority to act for the family or to show the beneficial interest held by the applicant is not attached.
13. Joint administrators hold one grant. Regardless of whether they are two or more, they must act in unison to manage the estate. They must take a common stand. The powers conferred on them under Section 82 of the *Law of Succession Act* are exercisable by all and not divisible.
14. In In re Estate of Makokha Idris Khasabuli (Deceased) [2020] eKLR, Musyoka J held that the four administrators could not purport to act singly or solely, unless there is a delegation of responsibility.
15. In this application, the applicant has not attached a death certificate to show that his co-administrator is either dead or has been authorised by the court to continue as the sole surviving administrator.
16. The upshot is that I find the application incompetent and lacking merits. It is struck out with no order as to costs.
17. Orders accordingly.



**RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT
KITALE ON THIS 15TH DAY OF APRIL 2026.**

HON. C.K. NZILI

JUDGE, ELC KITALE.

In the presence of:

Court Assistant - Dennis

Joseph Bett present

1st plaintiff absent

Defendant absent

