



Chege & another v Kenya Urban Roads Authority (Environment and Land Case E585 of 2025) [2026] KEELC 2139 (KLR) (21 April 2026) (Ruling)

Neutral citation: [2026] KEELC 2139 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E585 OF 2025**

CG MBOGO, J

APRIL 21, 2026

BETWEEN

PATRICK NDUNGU CHEGE 1ST APPLICANT

MARY NYOKABI CHEGE 2ND APPLICANT

AND

KENYA URBAN ROADS AUTHORITY RESPONDENT

RULING

1. Before this court is the notice of motion dated 17th November, 2025 filed by the plaintiffs/applicants, seeking the following orders:
 1. Spent.
 2. That pending the hearing of this application, the respondent be restrained by way of injunction from entering hiving off land title no. Dagoreti/Riruta/560.
 3. That pending the hearing of this suit, the respondent be restrained by way of injunction from entering or hiving off land Title Number Dagoretti/Riruta/560.
 4. That the costs of this application be provided for.
2. The application is premised on the grounds inter alia that the defendant/respondent has given notice of intention to widen the road heading to Lenana primary school. The application is further supported by the affidavit of the 1st plaintiff/applicant sworn on even date. He deposed that together with the 2nd plaintiff/applicant, they are the administrators of the estate of the late Salome Wanjiku Chege, the registered owner of the property known as Land Title Number Dagoretti/Riruta/560, the suit property herein.



3. The 1st plaintiff/applicant deposed that on 7th June, 2025 they received a letter from the defendant/respondent herein, informing them of the intention to hive off a section of the suit property, with a view to expanding the Lenana primary school road. He deposed that from the map of the proposed road, some portions of land will be hived off more than others, which is unfair to them. He contended that there was no public participation, nor were they given enough notice, which they term as a denial of natural justice. As a result of this, he stated that their proprietary rights have been compromised.
4. Paul Owino Odek, the assistant director (survey) of the defendant/respondent filed his replying affidavit sworn on 5th of December, 2025 in response to the application. He deposed that currently KURA is undertaking a road improvement project at Ngando Ward within Dagoretti constituency, and that the specific section of the project road spans approximately 750 meters in length of Mama Wahu road between Wambiri road junction and Lenana high school access road. Further, that alongside the said road, an ongoing separate construction of a perimeter wall around Lenana primary school is ongoing.
5. The defendant/respondent further deposed that there was stakeholder engagement on 27th February, 2025 at Ngando Multipurpose Hall, Ngando Ward, Dagoretti Sub-County, that was attended by various stakeholders, including but not limited to community landowners, KURA, Lenana school management and the local leadership. In support thereof, a copy of the minutes of the said meeting was annexed. It was further deposed that according to the registry index map (RIM) of Nairobi block 66 (Dagoretti Riruta), sheet no. J3, the following land parcels have yet to surrender the required 5 meters for the road widening project which was a requirement subject to the subdivision schemes under which the said parcels were demarcated.
 - a. Parcel No. Nairobi Dagoreti/Riruta 3886
 - b. Parcel No. Nairobi Dagoreti/Riruta 3887
 - c. Parcel No. Nairobi Dagoreti/Riruta 560 (the suit property)
6. That subsequent planning approvals by the county government of Nairobi required a 5-meter surrender for road widening, in compliance with Section 58 of the Physical and Land Use Planning (General Development Permission and Control) Regulations, 2021, enacted under the PLUPA (2019). He deposed that he had no knowledge of any objections, appeals or reviews filed as required by the said Act from the plaintiffs/applicants.
7. The defendant/respondent deposed that in this regard, KURA has demarcated a road reserve of 15 meters as indicated on the RIM Nairobi block 66 (Dagoretti Riruta). sheet no. 13. though some landowners have encroached upon the designated reserve, including the occupants on the suit property's, who have temporary structures on the reserve to be surrendered. Further, and to facilitate road construction, including the main carriageway, drainage systems, pedestrian walkways and provisions for utility services, he deposed that KURA requires full compliance with the designated road reserve. It was further deposed that the existing section of Mama Wahu road was constructed to base level by the Nairobi city county, and currently, KURA is in the process of upgrading the road to bitumen standard, incorporating lined drains on both sides.
8. That given the current situation, the only viable solution to achieve a 15-meter-wide road on this section is through recovery of land that was planned and was required to be surrendered as a road reserve and hence the owners of the affected parcels were duly notified and given notice to demolish and remove the encroachments. Additionally, it is essential to provide a 10-meter truncation at the junction with Wambiri road to ensure the safety of road users and maintain adequate space for road construction.



9. The defendant/respondent deposed that they have done all that was required to secure the designated public land where the road is supposed to be constructed. Further, that they are aware that there are other suits related to this one that encompasses the plaintiffs' land, that is; Nairobi ELC EP JR E008 of 2025 Patrick Ndungu Chege & Marry Nyokabi -vs- Kenya Urban Roads Authority (KURA) and Nairobi ELC E & P Petition No. E043 of 2025 Pius Njogu Nguo and another for Dagoretti District Landowners' Welfare Association — Ngando Chapter (Suing on behalf of the 19 affected landowners along Mama Wahu Road, Dagoretti, Nairobi.) versus Kenya Urban Roads Authority (KURA).
10. The defendant/respondent deposed that Lady Justice Omollo delivered a ruling dated 13th November, 2025 and issued conservatory orders affecting the suit land amongst other parcels therein and he annexed a copy of the said order. It is their view that this matter remains pending the hearing and determination of the petition in ELC E&P petition no. E043 of 2025.
11. By the time of writing this ruling, the parties had not filed their written submissions. Be that as it may, I have considered the application and the replying affidavit filed by the defendant/ respondent. The issue for determination is whether the orders of injunction ought to issue pending the hearing and determination of this suit.
12. The plaintiffs/applicants seek injunctive orders restraining the defendant/respondent from entering or hiving off land title number Dagoretti/Riruta/560, the suit property. Order 40 Rule 1(a) of the Civil Procedure Rules encompasses the provision for temporary injunctions and provides as follows:-

“ Where in any suit it is proved by affidavit or otherwise—

 - a. that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree; or.....the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal, or disposition of the property as the court thinks fit until the disposal of the suit or until further orders.
13. The court notes that this is a matter that involves a public entity that performs public functions, that is Kenya Urban Roads Authority, which is established under the Kenya Road Authority Act CAP 408 and mandated with the responsibility for the management, development, rehabilitation and maintenance of rural roads. Thus, this is a matter of public interest, and the nature of the orders sought herein are conservatory orders.
14. The elements necessary for the grant of conservatory orders were spelt out by the Learned Judges of the Supreme Court in the case of *Gatirau Peter Munya v Dickson Mwenda Kithinji & 2 others* [2014] eKLR where it was stated as follows:-

“Conservatory orders” bear a more decided public-law connotation: for these are orders to facilitate ordered functioning within public agencies, as well as to uphold the adjudicatory authority of the court, in the public interest. Conservatory orders, therefore, are not, unlike interlocutory injunctions, linked to such private-party issues as “the prospects of irreparable harm” occurring during the pendency of a case; or “high probability of success” in the applicant’s case for orders of stay. Conservatory orders, consequently, should be granted on the inherent merit of a case, bearing in mind the public interest, the constitutional values, and the proportionate magnitudes, and priority levels attributable to the relevant causes.”



15. Annexed to the defendant's/respondent's replying affidavit and marked as 'P.O.O 3' is an order issued by Hon. Lady Justice Omollo in ELCEP PET E043 of 2025 on 14th of November, 2025 whereby the learned judge issued a conservatory order restraining the respondents, from entering upon, making, fencing, demolishing, excavating, constructing, alienating or in any other manner interfering with the petitioners parcels of land with the suit land herein Nairobi Dagoreti/Riruta 560 being named among the said parcels for a period of 4 months. Further proceedings since then have not been produced by the parties herein.
16. Bearing in mind that the issues being addressed in the above-named petition (from a reading of the ruling delivered on 13th November, 2025) are the same issues raised by the plaintiffs/applicants', this court agrees with the defendant/respondent and on its own motion considering the interests of both parties, it is necessary to stay the proceedings in this matter pending the outcome and determination of the preceding suit, ELCEP PET E043 of 2025 which it hereby proceeded to stay. Costs shall be in the cause.

It is so ordered.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 21ST DAY OF APRIL, 2026.

HON. MBOGO C.G.

JUDGE

21/04/2026.

In the presence of:

Ms. Benson Agunga - Court assistant

Mr. Mmene Eredi for the Defendant/Respondent

No appearance for the Plaintiff/Applicant

