



**Githinji v Kamau (Environment and Land Appeal E014 of 2025)
[2026] KEELC 2436 (KLR) (22 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2436 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ENVIRONMENT AND LAND APPEAL E014 OF 2025**

JM KAMAU, J

APRIL 22, 2026

BETWEEN

PAUL MAINA GITHINJI APPELLANT

AND

JOEL MWAURA KAMAU RESPONDENT

RULING

1. The Decree issued in the Senior Principal Magistrate Court at Engineer in ELC No. E005 OF 2024 is that:-
 1. An order of permanent injunction be and is hereby granted restraining the Appellant, himself, agents, servants and/or employees or whoever claiming under him from trespassing, digging trenches, occasioned damage and/or in whatsoever way interfering with the Respondent's suit property known as Nyandarua/MHUNGI/677
 2. A mandatory order be and is hereby granted directing the Appellant to remove the building under construction on the Respondent's suit property L.R. NO. Nyandarua/ Mkungi/ 677 boundary in order to clear the original path for rain
 3. A mandatory order be and is hereby granted compelling the Appellant to backfill the 3 unlawful dug trenches on Nyandarua/Mkungi/677.
 4. Supervision of the above Orders by the Ministry of Agriculture, livestock and fisheries and other National and relevant County authorities such as Surveyor, planners and NEMA where applicable.
 5. The claim for special Damages be and is hereby dismissed since it was not specifically proved as required by law.
 6. Kshs 400,000 General damages for trespass.



7. Costs of the suit to be borne by the Appellant.
8. Interest on (f) and (g) above at court's rates from the date of Judgment till payment in full.
2. Following this Judgment, the Appellant filed a Motion Application on 11/2/2026 praying for orders that pending the Hearing and determination of the instant Appeal the Court be pleased to issue an order of stay of execution of the Decree and Certificate of assessed costs dated 4/2/2026 in the lower Court in Engineer PMELC case No. E005 OF 2024 and that the lower Court file be forwarded to this Court for purposes of prosecuting this Appeal.
3. The grounds upon which the Application is brought are contained on the face of the Application and in the Affidavit in support sworn by Paul Maina Githinji, the Appellant sworn on the same date of the instant Application which are that the Respondent has already applied for the execution of the Decree and the Certificate of costs in readiness for execution of the Decree any time from now, the building under construction could be demolished on the suit property Nyandarua/Mkungu/677 and the Applicant would be greatly prejudiced as he would suffer substantial and irreparable loss and the Appeal would be rendered nugatory. He further depones that he was always ready and willing to deposit security for due performance but the lower Court file was not availed to him for that purpose. The Application is brought without delay.
4. In the Respondent's grounds of objection, the Respondent states that the Application is an abuse of Court process and a waste of time and that the same is bad in law and the Application is not brought to Court with clean hands and is in bad faith meant to frustrate the Respondent from enjoying the fruits of his Judgment. That the lower Court ordered a stay of execution on condition that the Applicant do deposit Kshs 100,000/= in Court within 21 days as security and the Court gave a Mention date of 22/1/2026 to confirm compliance as shown in the Ruling attached to the grounds of objection.
5. I have looked at the said Ruling of the lower Court dated 27/11/2025 and find it more than reasonable enough and I also wish not to interfere with the same and wish to dismiss the current Application with costs as a waste of the Court's scarce resource of time.

RULING READ AND DELIVERED AT NYANDARUA THIS 22ND DAY OF APRIL 2026.

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Samson.

Appellant's Counsel: Gladys Wanjiru.

Respondent's Counsel: Mr. Chuma Mburu.

