



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC JUDICIAL REVIEW CASE NO. E007 OF 2026

**EVANS KABERIA LIMUKII.....1ST EXPARTE
APPLICANT**

**PAUL MWITI LIMUKII.....2ND EXPARTE
APPLICANT**

**MWIKA EBUTHANIA.....3RD EXPARTE
APPLICANT**

**JACKSON LIMIRI LIMUKII.....4TH EXPARTE
APPLICANT**

**MUTHONI M'MAIRUKI.....5TH EXPARTE
APPLICANT**

**JENNIFFER NTETU.....6TH EXPARTE
APPLICANT**

**KAIRI MAINGI.....7TH EXPARTE
APPLICANT**

=VERSUS=

**THE LAND REGISTRAR, TIGANIA WEST.....1ST
RESPONDENT**

**THE LAND SURVEYOR, TIGANIA WEST.....2ND
RESPONDENT**

**THE CHIEF MAGISTRATE,
TIGANIA LAW COURTS.....3RD
RESPONDENT**

**THE ATTORNEY GENERAL.....4TH
RESPONDENT**

=AND=

**CYRUS M'CHOKERA RUKUNGA.....INTERESTED
PARTY**

RULING
(EX-TEMPORE)

1. The court has considered the chamber summons dated 10/4/2026. Through it, the ex-parte applicants seek leave to initiate judicial review proceedings and obtain various judicial review writs. In addition, the ex-parte applicants seek an order staying implementation of the order made on 18/11/2025 and extracted on 19/11/2025 **in Tigania CM ELC Miscellaneous Application No. E127 of 2025**, pending the hearing and disposal of the substantive motion.
2. The gravamen of the ex-parte applicants is that the interested party initiated the above miscellaneous application against the Land Registrar; the Sub-County Surveyor; and the Attorney General. Through the miscellaneous application, the interested party sought an order directing altering of the acreage and the Registry Index Map [RIM] and the corresponding Map Sheet to increase the acreage of parcel

number **Tigania West/New Kiare/2118** to subsume parcels that are owned by the ex-parte applicants. They contend that the parties who are the 26 affected parcels were excluded from the said miscellaneous application, adding that on 18/11/2025, the Chief Magistrate Court went ahead and issued the prejudicial orders which are now being implemented to their detriment.

3. The court invited the ex-parte applicants to address it on why they are not utilizing the appeal mechanism under the civil procedure regime. Counsel for the ex-parte applicants has today explained that the applicants were excluded from the above case despite their subsequent plea for admission yet it is their parcels that are to be subsumed by the implementation of the order of the court.
4. Given the foregoing, the court is satisfied that the criteria for granting leave has been met. The purpose of leave under Order 53 of the Civil Procedure Rules was explained by Waki J. (*as he was then*) in **Republic v County Council of Kwale & another ex-parte Kondo & 57 others HCMCA No. 384 of 1996** as follows:

“ The purpose of application for leave to apply for judicial review is firstly to eliminate at an early stage any applications for judicial review which are either frivolous, vexatious or hopeless and secondly to ensure that the applicant is only allowed to proceed to substantive hearing if the court is satisfied that there is a case fit for further consideration. Leave may only be granted, therefore, if on the material available the court is

of the view, without going into the matter in depth, that there is an arguable case for granting the relief claimed by the applicant, the test being whether there is a case fit for further investigations at a full inter parties hearing of the substantive application for judicial review. It is an exercise of the court's discretion but as always it has to be exercised judicially."

5. The court is also satisfied that there is a proper basis for staying implementation of the impugned decision.
6. Consequently, the chamber summons dated 10/4/2026 is allowed in the following terms:-

(a) Leave is granted in terms of prayers 2, 3, 4 and 5.

(b) An order of stay of implementation is granted in terms of prayer 6.

(c) The substantive motion shall be filed and served within 21 days.

DATED, SIGNED AND DELIVERED AT MERU THIS 28TH DAY OF APRIL, 2026.

**B M EBOSO
ELC JUDGE**

In the presence of:

Mr Njindo for the Ex-parte Applicants.

Ms E Wairimu for the Respondents.

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