



**Mwangi (The legal representative of the Estate of John Mwangi Mutichia alias Waicigo Muticia) & another v Njuguna (Sued as legal administrator of the Estate of Rewel Njuguna alias Njuguna Manyara) & 3 others (Environment and Land Originating Motion E001 of 2025) [2026] KEELC 2368 (KLR) (28 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2368 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
ENVIRONMENT AND LAND ORIGINATING MOTION E001 OF 2025**

**MN GICHERU, J**

**APRIL 28, 2026**

**IN THE MATTER OF THE LIMITATIONS OF ACTIONS ACT CAP 22  
LAWS OF KENYA AND IN THE MATTER OF ADVERSE POSSESSION**

**BETWEEN**

**PETER WAIREGI MWANGI (THE LEGAL REPRESENTATIVE OF THE  
ESTATE OF JOHN MWANGI MUTICHIA ALIAS JOHANA WAICIGO  
MUTICIA) ..... 1<sup>ST</sup> PLAINTIFF**

**PETER WAIREGI MWANGI ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**THOMAS NJOROGE NJUGUNA (SUED AS LEGAL ADMINISTRATOR  
OF THE ESTATE OF REWEL NJUGUNA ALIAS NJUGUNA  
MANYARA) ..... 1<sup>ST</sup> DEFENDANT**

**THOMAS NJOROGE NJUGUNA ..... 2<sup>ND</sup> DEFENDANT**

**ISAAC KIMANI NGUGI ..... 3<sup>RD</sup> DEFENDANT**

**FRANCIS NJOROGE MAINA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This ruling is on the notice of motion dated 30-7-2025. The motion which is brought under Order 40 rules 1 and 2 of the [Civil Procedure Rules](#) and Sections 1A and 3A of the [Civil Procedure Act](#) seeks the following residual orders.



- (a) That pending the hearing and determination of this suit, this Court issues a temporary injunction/stay order restraining the Respondent by itself, its officers, servants, agents or otherwise howsoever from transferring, disposing or alienating the property known as Loc.7/Gathera/121 (the suit property).
- (b) That the costs of this application be provided for.
2. The motion is based on Seven(7) grounds and is supported by the affidavit of the 2<sup>nd</sup> Plaintiff dated 20-7-2025. The gist of the said grounds and the affidavit is as follows.
- One, the Respondents are the registered owners of the suit land and hold a beneficial interest. Two, the Applicants' father purchased the suit land from the 1<sup>st</sup> Respondent in the year 1959. Three, the Applicants have lived on the suit land since purchase and hence the claim of adverse possession. Four, the Respondents have started the process of selling/transferring the suit property hence the urgency. Five, if the suit property is alienated, the matter will be complicated further as the title is held in trust of the Applicants' estate.
3. The motion is opposed by the Respondents and the 1<sup>st</sup> Respondent has sworn a replying affidavit dated 23-2-2026 in which he deposes the following. One, the suit land was registered in the name Rewel Njuguna who held the same in trust for the members of the Mukenge clan comprising of over 33 families. Two, the suit land is registered in the joint names of the Respondents vide Kiambu CM Succession Cause No. 148B of 2015. The Applicants filed a summons for revocation of grant which they failed to prosecute until it was dismissed. Three, the Applicants do not have permanent structures, homesteads fences or developments indicative of exclusive possession.
4. Only the Respondents' counsel filed written submissions dated 25-3-2026 in which he identified the issues for determination as those in the celebrated case of *Giella vs. Cassman Brown* [1973] EA 358.
5. I have carefully considered the motion in its entirety including the grounds, the supporting affidavit, the replying affidavit and the written submissions. It is not disputed by the Respondents that the Applicants are in occupation of the suit land and that occupation has been for long. Secondly it is not disputed that the Applicants have tried to get registered as the owners of the suit land through the probate and administration court. Thirdly, the jurisdiction to determine a dispute pertaining the right to occupy the suit land is vested in this Court by Article 162 (2) (b) of the *Constitution* and Section 13 of the *Environment and Land Court Act* (Act No.19 of 2011).

Looking only at the condition of balance of convenience, I find that it tilts in favour of the Applicants who are in occupation of part of the suit land. In order to preserve the subject matter of the dispute, I find it fair and just to allow the notice of motion dated 30-7-2025 in terms of prayer 3(a).

Costs in the cause.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 28<sup>TH</sup> DAY OF APRIL, 2026.**

**M.N. GICHERU**

**JUDGE.**

Delivered online in the presence of; -

Court Assistant – Jackline

Applicants' Counsel – Miss Mueni

Respondent's Counsel – Mr. Kololo h/b

