

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA**

**ELC MISC NO E004 OF 2026**

**DANIEL KAMAU MWANGI .....1<sup>ST</sup>**

**PLAINTIFF**

**ELIUD KAMAU MWANGI.....2<sup>ND</sup> PLAINTIFF**

**GRACE WANJIRU MWANGI.....3<sup>RD</sup>**

**PLAINTIFF**

**VERSUS**

**JOHN PETER KINUTHIA GATERI.....DEFENDANT**

**RULING:**

In the chamber summons Application dated 8/12/2025, the Applicants herein prayed for an order that this Court enlarges time necessary for bringing the Application for purposes of prayer No. 3 that the Applicants be granted leave to apply for an Order of certiorari directed at the Nyahururu ELC High Court Judge to bring into this Court and be questioned the ex-parte Judgment and Decree in Nyandarua ELC(OS) case No. 30 of 2023 declaring that Daniel Kamau Mwangi be registered as the proprietor of Title Nos. NYANDARUA/MKUNYI/2583,2584,2855,2856,2857,2858,2859 and 2060 under the limitation of Actions Act on account of the doctrine of adverse possession together with all acts done pursuant to the aforesaid Judgment and Decree.

The 4<sup>th</sup> prayer was that the Applicants be granted leave to apply for an order of prohibition directed at the Land Registrar, Nyandarua County, restraining him or his agents from causing Daniel Kamau Mwangi to be registered as the proprietor of Title Nos. NYANDARUA/ MKUNGI/ 2853/2854/2855/2856/2857,2858,2859 and 2060 on account of Nyandarua ELC (OS) case No. 30 of 2023.

In prayer No. 5 the Applicants prayed that they be granted leave to apply for an Order of Mandamus directed against the Land Registrar, Nyandarua County compelling him or his agents to cancel all transfers of Title that have already been registered in the name of Daniel Kamau Mwangi in Title Nos. NYANDARUA/ MKUNGI/ 2853, 2854,2855,2856,2857,2858,2859 and 2060 on account of Nyandarua ELC (OS) Case No. 30 of 2023.

On the 6<sup>th</sup> prayer the Applicants pray that they be granted leave to apply for an Order of Mandamus directed at the Officer commanding Ndunyu Njeru Police Station compelling him to enforce compliance with the Ruling /Order issued by the High Court in Nakuru Civil Suit No. 455 of 2013 (OS) with regard to Title Nos. NYANDARUA /MKUNGI / 2853 - 2883, 2693 - 2894, 2923 - 2924 and 3249.

Lastly, the Applicants pray that the leave granted do operate as stay of execution founded on the ex-parte Judgment and Decree issued by the Honourable Mr. Justice Y.M. Angima dated 11/7/2024 in ELC (OS) case No. 30 of 2023 pending the hearing and determination of the Notice of Motion to be filed. In the Verifying Affidavit supporting the summons, the same sworn on 8/12/2025 by the 1<sup>st</sup> Applicant, Francis Lennie Gateri Kinuthia, the said Applicant depones that on 4/7/2013 an Originating Summons was filed by Daniel Kamau

Mwangi and 2 others against the late John Peter Kinuthia Gateri in Nakuru High Court case No. 455 of 2013 (OS) claiming adverse possession which was dismissed on 25/7/2014. John Peter Kinuthia Gateri then passed on in Nairobi on 10/7/2014 and all his property is subject to administration with the deponent and one Joseph Wainaina being joint Administrators of the Estate appointed on 17/2/2015 and which Estate has already been distributed.

Another suit against the Administrators of the Estate was then filed on 1/12/2022 by the same David Kamau Mwangi over the same properties. The case, ELC No. 30 of 2023, Nyandarua was heard ex-parte after the Respondent were not served.

Coming to prayer No. 6 the Applicants are advised to seek redress and protection in Nakuru High Court suit No. 455 of 2013 (OS). All the other prayers sought are prerogative orders which cannot be granted against an order of a superior Court. Therefore, granting leave for the said orders to be applied for would just be a waste of time. Prerogative orders of judicial review can only be granted against orders of:-

1. Subordinate Courts.
2. Tribunals.
3. Quasi- judicial bodies.

The Application herein is therefore disallowed and since the Respondents did not participate in the Application, I will not make an order for costs.

**Ruling dated and delivered at Nyandarua this 16th Day of April 2026.**

**MUGO KAMAU**  
**JUDGE**

**In the presence of:**

COURT ASSISTANT.....Samson.

APPLICANT.....N/A.

RESPONDENT.....N/A.