



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

ELC LC CASE NO. E067 OF 2025

ISABELLA

NJOKI

PERE....

.....**PLAINTIFF**

VERSUS

MARGARET

TUMELEI

LETILEY.....1ST

DEFENDANT

MWELU

LETILET

KAPAITO.....2ND

DEFENDANT

VICTOR

GITIERU

WAGUTHI.....3RD

DEFENDANT

MARTIN

WACHIRA

MAINA.....4TH

DEFENDANT

KELVIN PASHILE KADAINÉ.....5TH

DEFENDANT

DISTRICT LAND REGISTRAR, KAJIADO.....6TH

DEFENDANT

THE HONOURABLE ATTORNEY GENERAL.....7TH

DEFENDANT

RULING

1. There are three applications filed in this matter. The Plaintiff filed an application dated **30th April 2025**, another dated **8th December 2025** by the 4th and 5th Defendants; and **30th December 2025** by the 1st and 2nd Defendants.
2. The **Application dated 30th April 2025** by the Plaintiff seeks a temporary injunction against the Defendants restraining them from using, interfering or in any way dealing with parcels Kajiado/Kaputiei North/141557, 141558, 141559, 142771 and 142772.

3. This application is premised on the grounds on its face and in the sworn affidavit. The Plaintiff claims that she purchased parcel Kajiado/Kaputiei-North/1304 measuring approximately 16.19 hectares in 1989 from Letilet Kapaitoi Moi and was duly registered as the owner. In 2005, she subdivided the land into seven parcels (19347 - 19353) closing the original title and gifted five parcels (19348- 19351 and 19353) to her children. She sold parcel 19352 retained parcel 19347 which she continues to reside. She indicates that parcels 19347 which she retained and parcel 19350 gifted to Ann Njeri Pere did not have processed titles after the subdivision.
4. She discovered that in February 2024, the 1st and 2nd Defendants applied for a replacement of the title to parcel 1304, claiming it was lost. The 6th Defendant (District Land Registrar) issued a new title despite the fact that the original had been closed on subdivision in 2005. The Defendants then subdivided the land into parcels 141557, 141558, and 141559. They further subdivided parcel 141557 into parcels 142771 and 142772. Parcel 141559

was transferred to the 4th and 5th defendants, parcels 141558 and 142771 were retained by the 1st and 2nd defendants; and parcel 142772 transferred to the 3rd defendant.

5. That all this was irregular as title 1304 had been closed on subdivision in 2005. It was therefore in the interests of justice for grant of the orders sought.
6. The 1st Defendant in her Replying Affidavit dated 8th July 2025 contested this application on the grounds that she, together with the 2nd defendant had been in possession of the suit property from the year 1993 the same having been transferred to them by their late husband- Letilet Kapaito Moi and that the said ownership had never been contested from the year 1993 when Letilet passed on. They thus contested the claim of fraud/ illegality arguing that it was the Plaintiff who had adduced forged documents such as sale agreements which did not bear the late Letilet's authentic signature, questioned the sale agreements, witnesses and alleged purchase price.

7. In the **Applications dated 8th December and 30th December 2025**, the 4th, 5th, 1st and 2nd Defendants respectively sought for striking out of the Plaintiff's suit and application for want of *locus standi*.
8. They deponed that the suit was defective on grounds that the persons who the Plaintiff transferred parcels 19348-19353 to, were not parties to the suit and the Plaintiff could not claim to recover parcels of land not registered in her name. They stated she had not produced any title in her name.
9. At the time of writing the Ruling, parties had not filed their submissions to all applications.
10. Having considered the applications, relevant authorities and statutes I distil the following issues for determination.
- i. Whether the Plaintiff has locus standi to institute the suit;***
 - ii. Whether the Plaintiff is entitled to the injunctive reliefs sought;***

iii. Who should bear the costs of this application?

11. The 1st, 2nd, 4th and 5th Defendants object to the competence of this suit, contending that the Plaintiff lacks *locus standi* to institute proceedings. Their objection is grounded on the claim that the suit properties are not registered in the Plaintiff's name, and that no authority has been conferred upon the Plaintiff to institute proceedings on behalf of the registered proprietors.

12. Upon a careful perusal of the Plaint, this Court observes that the substratum of the Plaintiff's claim is Land Reference No. Kajiado/Kaputiei North/1304. The Plaintiff avers that she purchased the said parcel from the late Letilet Kapaitoi Moi in 1989 and that, following such purchase, she caused the parcel to be subdivided in 2005 into sub-parcels numbered 19347 through 19353, which were thereafter transferred to her five children and one David Kipchoge.

13. The parcels in respect of which she has produced titles according to her list of documents are Kajiado/ Kaputei North/ 19348, Kajiado Kaputei North/ 19349, Kajiado Kaputei North/ 19351, Kajiado Kaputei North/19352 and Kajiado Kaputei North/ 19353. While she alleges that she retained ownership of Kajiado Kaputei North/ 19347 she admits there is no title in her name.
14. The Plaintiff has therefore filed a suit in respect of properties she had transferred to other parties. She has not filed any replying affidavit to controvert any of the facts laid out in the two applications dated 8th December and 30th December 2025. She does not assert that she is filing on behalf of the registered proprietors.
15. Under **section 24 (1) of the Land Registration Act** registration vests in the registered proprietor absolute ownership together with all rights and privileges. Once the Plaintiff executed the transfer and registration was effected, she was divested of all proprietary interests in the land. The suit as claimed seeks orders in respect of properties the Plaintiff no longer has any interest over.

16. The court therefore finds that the plaintiff has no *locus standi* and as such the suit is incompetent. The suit is therefore struck out. In view of this finding, the application for injunction cannot lie. Given that parties did not file any submissions in the matter each party will bear their own costs for the suit.

Dated, Signed and Delivered virtually at Kajiado this 30th day of April 2026.

JUDY OMANGE

JUDGE

IN THE PRESENCE OF:

Mr. Karwanda for 3rd & 4th Defendants & holding brief for Mr. Maina for 1st & 2nd Defendants.

Mr. Nganga Kimani for Plaintiff.

Peter – Court Assistant.