



**Ruraria v Riungu & another (Environment and Land Case  
E014 of 2025) [2026] KEELC 2296 (KLR) (22 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2296 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT CHUKA  
ENVIRONMENT AND LAND CASE E014 OF 2025**

**BM EBOSO, J**

**APRIL 22, 2026**

**BETWEEN**

**RUCHA RURARIA ..... PLAINTIFF**

**AND**

**DINAH WANJA RIUNGU ..... 1<sup>ST</sup> DEFENDANT**

**LAWRENCE MURITHI MBAABU ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. On 14/10/2025, Rucha Ruraria (the plaintiff) took out an originating summons dated 13/10/2025 under Sections 37 and 38 of the *Limitation of Actions Act* against Dinah Wanja Riungu and Lawrence Murithi Mbaabu. He sought orders of adverse possession in relation to land parcel numbers Mwimbi/Chogoria/4132 and Mwimbi/Chogoria/4133. Both parcels measure approximately 0.38 hectares. They are registered in the names of the two defendants, respectively.
2. Alongside the originating summons, the plaintiff brought a notice of motion dated 13/10/2025, seeking interlocutory orders of inhibition relating to the two parcels. He also sought interlocutory injunctive orders restraining the two defendants against demolishing any of his structures on the suit parcels; entering onto, charging, leasing, selling, disposing or interfering with the two parcels. The said application is the subject of this ruling. The 1st defendant filed a replying affidavit supporting the plaintiff's case and supporting the application. The 2nd defendant opposed the plaintiff's plea for the above interlocutory orders.
3. The case of the plaintiff/applicant is that the suit land is a second generation subdivision out of land parcel number Mwimbi/Chogoria/89 (parcel number 89) which belonged to his deceased father, Ruraria Nganacha alias Araria Nkanatha (the deceased). Upon the death of his father, parcel number 89 was subdivided into four parcels through succession, namely: Mwimbi/Chogoria/3045; 3046; 3047 and 3048. The four subdivision parcels measured 0.61; 0.58; 0.08 and 0.08 hectares respectively. All



- the four subdivision parcels were initially registered in the name of the administrator of the estate, Mugwiria Ruraria, and were to be transmitted to the respective beneficiaries who included the plaintiff.
4. The plaintiff adds that during that period, he met the 1st defendant who offered to assist him offset his hospital bills, contending that, in return, he was to give her 0.25 acres out of his entitlement in the estate. He alleges that the 1st defendant manipulated the administrator and the administrator transferred the whole of parcel number Mwimbi/ Chogoria/3046 (parcel number 3046) to her in 2006 without his knowledge.
  5. The plaintiff states that the 1st defendant kept the transfer secret and proceeded to subdivide parcel number 3046 into two: parcel number Mwimbi/Chogoria/4132 and parcel number Mwimbi/Chogoria/4133 (parcel number 4132 and 4133, respectively). In 2011, he heard rumours that parcel number 4133 was being auctioned. Through an official search, he confirmed that the parcel had been auctioned and was registered in the name of the 2nd defendant.
  6. The plaintiff contends that despite the subdivision and the subsequent auction, the two defendants have never stepped onto the two subdivision parcels. He adds that he has tried in vain to reclaim the suit land through the Area Chief and through the Directorate of Criminal Investigations. It is his case that he has been in adverse possession of the two parcels for more than 50 years. He urges the court to grant him the interlocutory orders because he has been in adverse possession of the suit parcels for more than 50 years.
  7. The 1st defendant filed a replying affidavit dated 7/11/2025 in which she supported the plaintiff's case. As observed earlier, she also supported the plea for the above interlocutory orders.
  8. On his part, the 2nd defendant opposed the application through a replying affidavit dated 29/10/2025 and written submissions dated 8/12/2025. The case of the 2nd defendant is that he purchased parcel number 4133 in a public auction conducted by Agricultural Finance Corporation (the Lender) through M/s Giant Auctioneers on 26/2/2010. The Lender auctioned the parcel in exercise of the chargee's statutory power of sale after the 1st defendant, who was the registered proprietor, failed to repay a loan which the lender had advanced to her against the title. Prior to purchasing the land, the auctioneer and the bank officials took him to the land. He inspected the land and established that the land was vacant. No one objected to the auction. On purchasing the land, he took possession and introduced himself to the plaintiff who occupied a neighbouring parcel. From the date of purchase to date, he has been in possession of the suit land. His son, Michael Munene, has been in charge of the land and has been regularly checking on the parcel.
  9. It is the case of the 2nd defendant that the plaintiff has never had adverse possession of parcel number 4133 from the time he purchased it in 2010. He states that as late as April 2023, the plaintiff did not have a single structure on parcel number 4133, adding that recently, the plaintiff "cultivated" the tea bushes that were on the land, a move that the 2nd defendant describes as "an attempt to build a claim of adverse possession" against him.
  10. The 2nd defendant contends that the 1st defendant and the plaintiff are working in cahoots and are conspiring to defeat his rights as the registered proprietor of parcel number 4133, adding that the duo are related and hail from the same village.
  11. The 2nd defendant states that the plaintiff has been using his relatives and the Police to confront and intimidate him, and that the plaintiff has been making false allegations to the Police to the effect that he was defrauded the land. He urges the court to reject the plea for the above interlocutory orders.
  12. The court has considered the application, the response to the application and the parties' respective submissions. By and large, an inhibition is, by its nature, an interlocutory injunctive order that bars



any dealings in the land register relating to a particular parcel of land. Indeed, the criteria for granting an inhibition is largely the same as the criteria for granting an ordinary interlocutory injunction. Consequently, the two questions to be determined in this ruling are: (i) Whether the application meets the criteria for granting an ordinary interlocutory injunctive order as against the 1st defendant; and (ii) Whether the application meets the criteria for granting an ordinary interlocutory injunctive order as against the 2nd defendant. I will analyse and dispose the two issues sequentially in the above order.

13. The relevant criteria for granting an ordinary interlocutory injunction was outlined by the Court of Appeal for East Africa in the case of *Giella v Cassman Brown* (1973) 358 EA. First, the applicant is required to demonstrate a prima facie case with a probability of success. Second, the applicant is required to demonstrate that if the plea for an interlocutory injunction is declined, he will stand to suffer damage that may not be adequately indemnifiable through an award of damages. Thirdly, should the court have doubts on either or both of the above, the application is to be determined on the basis of the balance of convenience.
14. Over the years, our superior courts have developed a fourth principle to the effect that, at the stage of disposing the plea for interlocutory injunctive order, the court should refrain from making conclusive or definitive pronouncements on the key issues in the dispute. The courts have emphasized that definitive and conclusive pronouncements/findings should be reserved for the final disposal of the dispute.
15. The Court of Appeal defined a prima facie case in *Mrao Ltd v First American Bank of Kenya Ltd & 2 others* (Civil Appeal 39 of 2002) (2003) KECA 175 (KLR) as follows:

“A case which, on the materials presented to the court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.”
16. Does the application meet the above criteria as against the 1st defendant? In her response to the originating summons, the 1st defendant filed a replying affidavit dated 7/11/2025. She deposed that she had all along been willing to transfer parcel number 4132 to the plaintiff, adding that she had relinquished her rights over parcel number 4132. She further deposed that parcel number 4132 is where the plaintiff has settled and stays. She stated that she had informed the plaintiff’s advocate to present to her transfer instruments to enable her execute them and convey parcel number 4132 to the plaintiff. She added that she was not ready/willing to mount a defence in this suit.
17. The 1st defendant added that she was admitting the contents of the application dated 13/10/2025 and that she did not want to involve herself in what she described as “unnecessary litigation.” She urged the court to grant the plaintiff the interlocutory orders sought in the application.
18. Given the above depositions that are contained in the 1st defendant’s replying affidavit, the court is left wondering what it is that prompted the plaintiff to seek adverse possession orders in relation to parcel number 4132. The court is also left wondering what games the plaintiff and the 1st defendant are playing. The court is further left wondering what games the 1st defendant sought to play by obtaining registration of parcel number 3046 in her name; subdividing it; using one of the subdivision titles (parcel number 4133) as a collateral; failing to service the loan; and allowing the mortgaged subdivision title to be auctioned.
19. Suffice it to state that, in light of the 1st defendant’s response, which is, by and large, an admission, the application dated 13/10/2025 is deemed to meet the criteria for granting an interlocutory injunctive order as against the 1st defendant. That is the finding of the court on the first issue.



20. Does the application meet the criteria for granting an ordinary interlocutory injunctive order as against the 2nd defendant? The plea for the two limbs of interlocutory injunctive orders is premised on the ground that the plaintiff has been an adverse possessor of parcel number 4133 for more than 50 years. Has he? From his own contradictory evidence, the suit land is a second generation subdivision out of parcel number 89 which belonged to his late father. Up to the year 2006, parcel number 89 was the subject matter of succession in a succession cause relating to the estate of the plaintiff's father. The plaintiff alleged that through succession, he was entitled to parcel number 3046 (a first generation subdivision out of parcel number 89). It does also emerge from the plaintiff's evidence that what prompted the administrator of the estate of the plaintiff's father to convey parcel number 3046 to the 1st defendant in 2006 was the fact that the 1st defendant had given the plaintiff money to defray his hospital bills. As late as 2006, succession relating to the estate was still ongoing. Clearly, what emerges from the above interlocutory evidence is that the plaintiff's presence on parcel number 89 was by dint of him being a son of the late Ruraria Nganacha. It is therefore not true that the plaintiff has been on parcel number 4133 (a second generation subdivision of parcel number 89) as an adverse possessor for over 50 years.
21. Secondly, the plaintiff's allegation that he has enjoyed quiet and peaceful adverse possession of the suit land between 2010 (the year the 2nd defendant purchased the suit land through auction) and 2025 (the year this originating summons was taken out) has been controverted. Through the plaintiff's evidence, it does emerge that the 2nd defendant has all along been firm and consistent in asserting his ownership rights over the suit land. The 2nd defendant resisted the plaintiff's attempt to use the Area Chief and the Directorate of Criminal Investigation to dispossess the 2nd defendant parcel number 4133. Without being definitive, what emerges from the totality of the interlocutory evidence placed before the court is that at this interlocutory stage, the plaintiff has not demonstrated that he has had peaceful and unchallenged adverse possession of parcel number 4133 for a period of 12 years to inform the view that he has established a prima facie case that would warrant issuance of injunctive orders against a registered land owner.
22. The 1st defendant supported the plaintiff's case and deposed that the plaintiff has settled and resides on parcel number 4132 which she is ready and willing to transfer to the plaintiff. In the above circumstances, I do not see any element of irreparable damage with regard to parcel number 4133 which was auctioned in 2010 and the plaintiff did not find it necessary to challenge the auction through a suit.
23. The balance of convenience, similarly, tilts in favour of allowing the registered proprietor of parcel number 4133 to continue enjoying ownership rights over the land. Consequently, the finding of the court is that the application does not meet the criteria for granting an ordinary interlocutory injunctive relief as against the 2nd defendant.
24. For the above reasons, the notice of motion dated 13/10/2025 succeeds as against the 1st defendant but fails as against the 2nd defendant. In the end, the said application is disposed in the following terms:
  - a. Pending the hearing and disposal of this suit, an order of inhibition is hereby issued against the 1st defendant in relation to land parcel number Mwimbi/Chogoria/4132.
  - b. Pending the hearing and determination of this suit, the 1st defendant together with her servants and agents are hereby restrained against demolishing the plaintiff's structures and assets on parcel number Mwimbi/Chogoria/4132 and the 1st defendant is further restrained against entering onto, charging, leasing, selling, disposing or interfering with the said parcel of land.
  - c. The above orders shall lapse after 12 months.



- d. As between the plaintiff and the 1st defendant, costs of the application shall be in the cause.
- e. As against the 2nd defendant and as relates to parcel number Mwimbi/Chogoria/4133, the application dated 13/10/2025 is rejected and dismissed for lack of merit.
- f. The plaintiff shall bear the 2nd defendant's costs of the application.

**DATED, SIGNED AND DELIVERED AT CHUKA THIS 22ND DAY OF APRIL, 2026.**

**B M EBOSO [MR]**

**ELC JUDGE**

**In the Presence of:**

Ms. Ochola for the Plaintiff

1st Defendant – Absent

Judy Micah for the 2nd Defendant

Court Assistant – Nicholas

