



Kamau & others v Thuita & others (Environment and Land Case 1584 of 2016) [2026] KEELC 2598 (KLR) (4 May 2026) (Ruling)

Neutral citation: [2026] KEELC 2598 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE 1584 OF 2016**

CG MBOGO, J

MAY 4, 2026

BETWEEN

CATHERINE MUNJIRU KAMAU & OTHERS PLAINTIFF

AND

SAMUEL MWANGI THUITA & OTHERS DEFENDANT

RULING

1. Before this court for determination is the notice of motion dated 13th October, 2025 filed by the plaintiffs/deed holders. It is expressed to be brought under Sections 34 and 44(1) of the [Civil Procedure Act](#), Order 22 Rule 35, Order 51 Rule 1 and Order 5 Rule 17 of the Civil Procedure Rules seeking the following orders:-
 1. That the court be pleased to issue summons compelling Lucy Nyokabi Mathenge, David Mwangi Wanderi, Kigera Waireri Sisto, T. Mwambia, Anthony James Muhoro Njogu, Emmah Njoki Kamau, Muhuri Muchiri Jr. Josephine Wambui, Raphael Thiumba, Jane Gakuya Mwaura Irari, Gabriel Gitonga, Joseph J. Kanani, Jane N Muregi, Annah M. Njaimwe who are the current directors of Embakasi Ranching Co. Ltd in office and Wanjiru Richu, Charles Kihagi Thijah, Jane Njeri Muregi, Phideli Wangare, James Njehu Mbochi Njehu, Bernard Kiragu Kamau, Joseph Juan Kanani, Peninah Nyairegi Mwangi, James Mingi Njoroge, Gabriel Gitonga, Joseph Kinyanjui Njenga, Christopher Elied Gakuru Ngige, David Mwangi Wanderi, Sisto Tuta Mwambia and Andrew Ouko Okumu who are the current directors in CR 12 as at 15th July, 2025 the bona fide officials of the respondent/judgment debtor Embakasi Ranching Co. Ltd do appear and attend court on such date as may be ordered or allocated to be orally examined as to the respondents means and assets in satisfying the decretal sums and costs owed to the applicants herein in the sum of Kshs.54,094,832.02.
 2. That the court be pleased to make an order against the said officials Lucy Nyokabi Mathenge, David Mwangi Wanderi, Kigera Waireri Sisto, T. Mwambia, Anthony James Muhoro Njogu,



Emmah Njoki Kamau, Muhuri Muchiri Jr. Josephine Wambui, Raphael Thiumba, Jane Gakuya Mwaura Irari, Gabriel Gitonga, Joseph J. Kanani, Jane N Muregi, Annah M. Njaimwe who are the current directors of Embakasi Ranching Co. Ltd in office and Wanjiru Richu, Charles Kihagi Thijah, Jane Njeri Muregi, Phideli Wangare, James Njehu Mbochi Njehu, Bernard Kiragu Kamau, Joseph Juan Kanani, Peninah Nyairegi Mwangi, James Mingi Njoroge, Gabriel Gitonga, Joseph Kinyanjui Njenga, Christopher Elied Gakuru Ngige, David Mwangi Wanderi, Sisto Tuta Mwambia and Andrew Ouko Okumu who are the current directors in CR 12 as at 15th July, 2025 do produce in court books of account, statements, annual returns, bank accounts, certificates of titles of the properties owned by the respondent and any other information relating to the affairs of Embakasi Ranching Co. Ltd for purposes of satisfying the decretal sums and costs owed to the applicants herein in the sum of Kshs.54,094,832.02.

3. That upon examination of the said officials in prayers 2 & 3 above and in default of sufficient demonstration of settlement of the decretal sum, this honourable court be pleased to issue notice to show cause and or warrants to commit to civil jail the officials of the respondent who are personally held jointly and severally liable to pay the applicant the decretal sums and costs in the sum of Kshs.54,094,836.02 and execution proceedings against the said officials of the judgment debtor to satisfy the decretal sums and costs owed to the applicants herein.
 4. That the said officials do pay the decretal sum being Kshs.54,094,836.02 or they be committed to civil jail.
 5. That the court be pleased to order that the said officials be served this application and the said summons through their advocates on record or substituted service by serving them through the respondent being the place they carry on the business, postal address and the place they work for gain.
 6. That the costs of this application be borne by the defendant.
2. The application is premised on the grounds on its face. It is further supported by the affidavit of Michael Kamau Kinga, the learned counsel on record for the plaintiffs/applicants sworn on even date. He deposed that judgment was delivered in this matter on 1st February, 2018 wherein the plaintiffs/applicants were awarded Kshs.25,154,000/- together with interest and costs totaling Kshs.31,751,069/- as at 21st December, 2018. Further, that the sum inclusive of interest up to date is now Kshs.54,094,832.02/-. The learned counsel deposed that despite auctioneers reaching out to the respondents regarding payment of the sums due, the defendants/respondents have been evasive, and made empty promises thus necessitating the filing of this application.
 3. The learned counsel averred that there are two sets of officials, and the second set of officials contained in the CR 12 dated 15th July, 2025 have been restrained by the court from interfering with the management of the defendant company. Further, despite efforts to attach the company's assets which cannot satisfy the decree, the defendants/respondents have refused to settle the said decree and there is need for them to appear in court for examination to establish whether the defendants/respondents own any assets.
 4. The defendants/respondents did not file their response to the instant applicant. Be that as it may, the plaintiffs/applicants filed their submissions dated 24th February, 2026. The issue for determination is whether the application has merit.



5. Order 22 Rule 35 of the Civil Procedure Rules provides as follows:-

“Where a decree is for the payment of money, the decree- holder may apply to the court for an order that—

- a. the judgment-debtor;
- b. in the case of a corporation, any officer thereof; or
- c. any other person, be orally examined as to whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree, and the court may make an order for the attendance and examination of such judgment-debtor or officer, or other person, and for the production of any books or documents.”

6. Under the above provision of the law, the court has the power to summon any officer of a company to attend before it to be examined on whether any or what debts are owing to the judgment-debtor, and whether the judgment-debtor has any and what property or means of satisfying the decree. This is a lawful process provided by law.

7. In the case of Post Bank Credit Limited (In Liquidation) v Nyamangu Holdings Limited [2015] KEHC 5964 (KLR), Gikonyo, J held as follows:-

“However, despite the jurisdiction the court, the decision to lift the corporate veil should not be undertaken lightly as it opens the directors or members of the company to personal liability. There should be sufficient circumstances provided in statutory law or judicial precedents which allow the court to do so. In the present case, there is no formal request for the lifting of the veil, and also, there is not any material to support lifting of the veil at the moment. The only allegation made in the submissions and on shallow pitch is that the plaintiff is not aware of the assets of the defendant company; in my view, that is a good ground for invocation of the jurisdiction of court under Order 22 rule 35 of the CPR for purposes of examination of Mr. Peter Karing’u rather than lifting of the corporate veil. I have already ordered attendance of Mr. Peter Karing’u for examination. And I quickly, add that, information which may be provided in the examination of a person summoned under Order 22 rule 35 alone or together with other relevant evidence which the judgment-holder may command, could be a basis for the lifting of the veil as long as it satisfies the threshold of the law.”

8. In this case, the plaintiffs/applicants obtained judgment in their favour as per the decree issued on 25th October, 2018. The plaintiffs/ applicants, through their counsel argued that the 9th defendant/ respondent is yet to settle the said decree and has evaded through giving excuses. While I note that there is an order restraining the second set of officials of the 9th defendant/respondents from managing the affairs of the said company, and noting that there are officials who are running the company, it is only fair that they appear in court for examination of the company’s statements of accounts. I am satisfied that those in office should appear in court and explain why the decretal sum is yet to be settled while it continues to accumulate interest.

9. From the above, I find merit in the notice of motion dated 13th October, 2025 and it is allowed in the following terms:-



- i. Summons are hereby issued directing Lucy Nyokabi Mathenge, David Mwangi Wanderi, Kigera Waireri Sisto, T. Mwambia, Anthony James Muhoro Njogu, Emmah Njoki Kamau, Muhuri Muchiri Jr. Josephine Wambui, Raphael Thiumba, Jane Gakuya Mwaura Irari, Gabriel Gitonga, Joseph J. Kanani, Jane N Muregi, Annah M. Njaimwe the current directors of Embakasi Ranching Co. Ltd in office to appear in court on 3rd June, 2026 for examination of the 9th defendant/respondent's assets in satisfying the decretal sums and costs owed to the plaintiffs/applicants herein in the sum of Kshs.54,094,832.02.
- ii. The said officials Lucy Nyokabi Mathenge, David Mwangi Wanderi, Kigera Waireri Sisto, T. Mwambia, Anthony James Muhoro Njogu, Emmah Njoki Kamau, Muhuri Muchiri Jr. Josephine Wambui, Raphael Thiumba, Jane Gakuya Mwaura Irari, Gabriel Gitonga, Joseph J. Kanani, Jane N Muregi, Annah M. Njaimwe who are the current directors of Embakasi Ranching Co. Ltd in office to produce in court books of account, statements, annual returns, bank accounts, certificates of titles of the properties owned by the 9th defendant/respondent and any other information relating to the affairs of Embakasi Ranching Co. Ltd for purposes of satisfying the decretal sums and costs owed to the applicants herein in the sum of Kshs.54,094,832.02.
- iii. In default of order (i) above, warrants of arrest to issue.
- iv. The said officials in prayers (i) and (ii) above to be served personally and through their advocates on record.
- v. Costs in the cause.

It is so ordered.

DATED, SIGNED & DELIVERED VIRTUALLY THIS 4TH DAY OF MAY, 2026.

HON. MBOGO C.G.

JUDGE

04/05/2026.

In the presence of:

Ms. Benson Agunga - Court assistant

Ms. Waweru for the Plaintiffs

No appearance for the Defendants

