



Mwaura v Estate of Ikeere Gitau & 3 others (Environment and Land Case E014 of 2025) [2026] KEELC 2634 (KLR) (6 May 2026) (Ruling)

Neutral citation: [2026] KEELC 2634 (KLR)

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

JM KAMAU, J

MAY 6, 2026

BETWEEN

CHARITY WAJERI MWAURA PLAINTIFF

AND

ESTATE OF IKEERE GITAU & 3 OTHERS & 3 OTHERS & 3 OTHERS DEFENDANT

RULING

1. In the Complaint dated 3/2/2025 the Plaintiff sued against the 2 Estates being 1st and 2nd Defendants respectively, the Director of Settlement and the Land Registrar. She prayed for a Declaration that she is the bonafide owner of the parcel of land L.R No. Nyandarua/South Kinangop/431, a permanent injunction barring the 1st and 2nd Defendants from entering, occupying, trespassing and dealing whatsoever through the agents, with land parcel No. Nyandarua/South Kinangop/431, an order directing the Land Registrar Nyandarua to effect the register and have the Plaintiff registered the proprietor of the parcel of land and issue a Title Deed to the Plaintiff and that the area OCS to assist in the implementation of the above orders plus costs of the suit.
2. He averred that the Estate she represents, that of Waithera Mwaura purchased the suit land from South Kinangop Settlement Scheme in 1985 which property was acquired through a loan by the aforesaid scheme which loan was fully cleared by the late Waithira Mwaura Kahiga as a result of which she was allocated the land by the Directorate of Settlement, South Kinangop Settlement Scheme. The 1st Defendant then got a Title indicated as NYANDARUA / SOUTH KINANGOP /43B which she terms as illegal encroachment of the suit property by the first 2 Defendants.
3. On 4/2/2026 John Kihera Kahiga and Annah Wanjiru Mwaura, the biological brother and sister to the Plaintiff respectively sought to be joined as interested parties in the proceedings herein claiming that they are equally bonafide owners of the suit property with the Plaintiff. The 2 were later joined as interested parties on 4/2/2026, courtesy of the Plaintiff.



4. Thereafter on 11/3/2026, the Advocates for the 2nd Defendants filed a Notice of Preliminary Objection dated 10/3/2026 claiming that: -
 1. The Plaintiff lacks locus standi since she has not exhibited a confirmed Grant of Letters of Administration in respect of the Estate of Waithira Mwaura Kahiga (Deceased).
 2. The suit is incompetent and improperly constituted as the Plaintiff purports to sue “Estate “generally since Estates can only sue or be sued through their duly appointed legal Administrators.
 3. The suit is fatally defective and statute barred by virtue of the limitation of Actions Act, the cause of action having arisen in or about 1985.
 4. The Plaintiff is improper for it includes interested parties without leave of Court.
 5. The Suit is res judicata due to: -
 - a. Nairobi High Court Civil Case No. 395 of 1997.
 - b. Waithira Mwaura -vs- Ikere Gitau (2011) eKLR.
 - c. Nakuru ELC petition No. 18 of 2019.
 6. The Plaintiff discloses no reasonable cause of action for failing to attach documents of Titles, allotment, grant or any proprietary instrument of ownership of Nyandarua/South Kinagop / 431.
 7. The intended parties should have advanced their claims through the duly appointed legal Administrators.
5. One David Wainaina swore a Replying Affidavit as the legal Administrator of the 2nd Defendant and repeated the same averments as in the Notice of Preliminary Objection. The same was sworn on 10/3/2026 same date as the Preliminary objection.
6. On matters *res judicata*, I have not been furnished with material to compare this case with in order to conclude that this case is *res judicata*. This is a big flaw to the Defendant’s Notice of Preliminary Objection. As for the other issues raised, I order that the same be raised during the hearing of this case since according to Mukhisa Biscuits case, it is not obvious to make the conclusions raised by the Defendants from the Pleadings and the Defendants are yet to file their Defence(s).
 7. The Defendants reserve the right to appropriately raise the issues they have raised during the hearing of this case. The objection is therefore disallowed. Costs in the cause.

RULING READ AND DELIVERED AT NYANDARUA THIS 6TH DAY OF MAY 2026.

MUGO KAMAU

JUDGE

In the Presence of:

Court Assistant: Samson.

Plaintiff’s Counsel :Mr Kamuiru

Defendant’s Counsel: Mr. Njugi for the 2nd Defendants

Ms. Omondi for the 1st Defendant



Mr. Thuku for the intended interested parties

