



REPUBLIC OF KENYA



Njenga & another v Kenya Electrical Transmission Company Limited (Environment and Land Appeal 53 of 2023) [2026] KEELC 2650 (KLR) (6 May 2026) (Ruling)

Neutral citation: [2026] KEELC 2650 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ENVIRONMENT AND LAND APPEAL 53 OF 2023**

JM KAMAU, J

MAY 6, 2026

BETWEEN

MOSES MBURU NJENGA & ANOTHER PLAINTIFF

AND

KENYA ELECTRICAL TRANSMISSION COMPANY LIMITED ... DEFENDANT

RULING

1. Judgment in the lower Court i.e. Nyahururu CMCELC No. 41 of 2019 was delivered by the Honourable C. Obulutsa, Chief Magistrate on 6/10/2023 to the effect that: -

“ Having considered the Plaintiff’s case, Defence and submissions, the Court finds that on a balance of probability, the Plaintiffs have proved their case to the extent that Judgment will be entered as follows:-

1st Plaintiff: -

Loss of limited land use already paid.Loss of trees – 160,148/=Loss of bee hives – 112,000/=

Total- Kshs 272,148/=

2nd Plaintiff: -

Loss of limited land use – 237,600/=Loss of trees – 35,050/=Loss of bee hives –252,000/=

Total- Kshs 523,650/=

The Plaintiffs will have costs of the suit and interest from the date of filing suit”

2. Thereafter the Appellants (who were the Plaintiffs in the lower Court filed this Appeal against the Respondent (the Defendant in the lower Court) vide the Memorandum of Appeal dated 2/1/2022 seeking that the figures be enhanced.



3. On 16/7/2025, the Respondent filed an Application seeking that the current Appeal be struck out summarily or in the alternative that the Appellants be ordered to furnish security for costs in the sum of Kshs 1,000,000 or such other sum as may be determined by the Court as a condition for prosecuting the Appeal.
4. The grounds on which the Application was made was that the Respondent had executed the Decree of the lower Court and even over-paid what was awarded. She had paid Kshs 1,324,516.73 and that an Appeal cannot lie over such a matter where the decretal amount has been satisfied.
5. The undated Affidavit in support of the said Application was sworn by Florence Mitey, company Secretary of the Respondent re-iterating the averments on the face of the Motion.
6. In a Replying Affidavit sworn on 11/2/2026, the 2 Appellants deponed that they have a right of Appeal but have not filed their Record of Appeal because they have not received proceedings from Nyahururu Law Courts.
7. The Question that comes to my mind is “what are the Appellants dissatisfied with?” And why has it taken them so long to file the Record of Appeal?
8. There are only 2 letters seeking proceedings from the Court. One dated 25/10/2022. The second one dated 5/2/2026 just before the current Application was filed, a break of about 4 years. No follow up in between.
9. I will not say much since I have to reserve my observations just in case I may have to hear the Appeal. But I will order that the Appellants do file their Record of Appeal within the next 45 days failure to which the Appeal will stand struck out. Costs of this Application to the Respondent in the Appeal.

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

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Samson.

Appellant’s Counsel: N/A.

Respondent’s Counsel: Ms. Seleke.

