



**Ololua Estate LLP v Mugo & 5 others (Land Case E058 of 2024)
[2026] KEELC 2603 (KLR) (4 May 2026) (Ruling)**

Neutral citation: [2026] KEELC 2603 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
LAND CASE E058 OF 2024**

CG MBOGO, J

MAY 4, 2026

BETWEEN

OLOLUA ESTATE LLP PLAINTIFF

AND

NAFTALI MAINA MUGO 1ST DEFENDANT

STARGAZE VENTURE LIMITED 2ND DEFENDANT

THE CHIEF LAND REGISTRAR OF LANDS 3RD DEFENDANT

IVORY CONCEPTS LIMITED 4TH DEFENDANT

STRUCTURE LITE LIMITED 5TH DEFENDANT

AND

**DIRECTOR OF CRIMINAL INVESTIGATION, KAREN POLICE
STATION INTERESTED PARTY**

RULING

1. Before this court for determination is the notice of motion dated 6th February, 2026 filed by the 3rd, 4th and 5th defendants/applicants, and it is expressed to be brought under Article 40 of *the Constitution* of Kenya, Sections 3 and 3A of the *Civil Procedure Act*, and Order 40 and 51 of the Civil Procedure Rules seeking the following orders:-

1. Spent.
2. That pending the hearing pending the hearing and determination of this application, the honourable court does issue an order of interim injunction restraining the chief land registrar from conducting parallel quasi-judicial hearings slated for the 3rd of March, 2026 or attempting to construct deed file on behalf of the plaintiff herein over land known as land reference



number LR. No. 5830/ 7 and L.R. No. 5954/2 in the city of Nairobi in the Nairobi area district.

3. That pending the hearing and determination of the main suit, the honorable court does issue an order of interim injunction restraining the chief land registrar from conducting parallel quasi-judicial hearings slated for the 3rd of March, 2026 or attempting to construct deed file on behalf of the plaintiff herein over land known as Land Reference Number LR. No. 5830/7 and L.R. No. 5954/2 in the city of Nairobi in the Nairobi area district.
2. The application is supported by the affidavit of Victor Okello, the Director of the 3rd defendant/applicant sworn on even date. The 3rd defendant/applicant deposed that together with the 4th and 5th defendants/applicants, they are the absolute registered owners of the parcels of land known as LR. No. 5830/7 (original number 5830/4/1), measuring approximately 21 acres, and LR. No. 5954/2, measuring approximately 8.4 acres in Nairobi. The 3rd defendant/applicant further averred that despite being a party to this suit, the 2nd defendant/respondent has purported to initiate parallel quasi-judicial proceedings, including a scheduled hearing on 3rd March, 2026 and an attempt to “reconstruct” the deed files for LR. No. 5830/7 and LR. No. 5954/2 vide Gazette Notice No.8239 that was published on 21st November, 2025.
3. According to the 3rd to 5th defendants/applicants, such parallel proceedings by the 2nd defendant/respondent are unlawful, irregular, and prejudicial, as they amount to an abuse of process and undermine the jurisdiction of this court. Further, the 2nd defendant/respondent having been sued in this matter cannot sit as a judge in its own cause or conduct proceedings that directly relate to the subject matter of this suit.
4. The 3rd to 5th defendants/applicants note that the plaintiff/respondent has, in its pleadings, confirmed that no records pertaining to the properties exist at the Ministry of Lands, which further underscores the impropriety of the 2nd defendant/respondent’s attempts at reconstruction, as it appears designed to introduce potentially forged or unauthorized documents into the land records to the detriment of their titles. Through their advocates, they lodged a formal objection to the gazette notice vide a letter dated 24th November, 2025, addressed to the Principal Secretary, State Department for Lands and Physical Planning, with copies to the Chief Land Registrar. In the said letter, they presented their titles and emphasized that the registers are not lost or destroyed, and that the plaintiff has never been the registered owner, and that the matter is sub-judice before this court.
5. The 3rd to 5th defendants/applicants contend that allowing the 2nd defendant/respondent to proceed with the parallel quasi-judicial hearings or reconstruction would irreparably prejudice their rights under Article 40 of *the Constitution* of Kenya and defeat the ends of justice in this suit.
6. From the record, the plaintiff/respondent did not file its response to the application. The affidavit of service sworn on 18th February, 2026 attests to service of the same upon the defendants but the replying affidavit is not available on the case tracking system. As it is the application is unopposed.
7. The application was canvassed through written submissions. The 3rd to 5th defendants/applicants filed their submissions dated 24th February, 2026. The plaintiff/respondent filed its submissions dated 16th March, 2026. I have considered the application and the written submissions filed by the respective parties. The issue for determination is whether the application has merit.
8. The 3rd to 5th defendants/applicants herein seek the intervention of this court to restrain the 2nd defendant/respondent from proceeding with the reconstruction of the deed files for LR No. 5830/7 and 5954/2 as per Gazette Notice No.8239 that was published on 21st November, 2025. The said



gazette notice is worded as a notice for reconstruction of lost or destroyed land registers, and stipulated that the plaintiff/respondent is the registered owner of both properties. The 3rd to 5th defendants/applicants vehemently oppose the very act of reconstruction and annexed copies of their certificate of titles with their names registered as the respective proprietors.

9. Section 33 of the *Land Registration Act* Cap 300 provides as follows:-

“Where a certificate of title or certificate of lease is lost or destroyed, the proprietor may apply to the registrar for the issue of a replacement certificate of title or certificate of lease, and shall produce evidence to satisfy the registrar of the loss or destruction of the previous certificate of title or certificate of lease.

- (2) The registrar shall require a statutory declaration to be made by all the registered proprietors, and in the case of a company, the director, where property has been charged, the chargee that the certificate of title or a certificate of lease has been lost or destroyed.
- (3) If the registrar is satisfied with the evidence proving the destruction or loss of the certificate of title or certificate of lease, and after the publication of such notice in the gazette and in any two local newspapers of nationwide circulation, the registrar may issue a replacement certificate of title or certificate of lease upon the expiry of sixty days from the date of publication in the gazette or circulation of such newspapers; whichever is first.
- (4) If a lost certificate of title or certificate of lease is found, it shall be delivered to the registrar for cancellation.
- (5) The registrar shall have powers to reconstruct any lost or destroyed land register after making such enquiries as may be necessary and after giving due notice of sixty days in the gazette.
- (6) Upon the issue of a replacement certificate no further dealings shall be carried out using the replaced certificate.”

10. The above provision provides for the procedure in relation to replacing a lost or destroyed. However, the 3rd to 5th defendants/applicants read mischief in the same, averring that it is they who are the registered proprietors of the said suit properties. As per the aforesaid gazette notice, objections to the said reconstruction are to be made before lapse of the 60 days’ notice, which from the annexures, the 3rd to 5th defendants/applicants sent their objection. Pursuant to the objection, the 2nd defendant/respondent issued notice to the plaintiff/respondent and the 3rd to 5th defendants to appear before them on the 3rd of March, 2026 with documents in respect of the parcels.

11. It is the 3rd to 5th defendants/applicants’ contention that the 2nd defendant/respondent, is directly implicated in the plaintiff/respondent’s claims of fraud or negligence regarding the suit properties’ records and thus will be offending the principle of *nemo iudex in causa sua*, that no one should be a judge in their own cause.

12. In the case of *Alnashir Popat & 7 others v Capital Markets Authority* [2020] eKLR the court held that:-

“.....in any matter that can be classified as judicial or quasi-judicial, or one where, in the view of a reasonable man conversant with the matter, there is likely to be bias or a reasonable apprehension of bias, the respondent must observe the *nemo iudex in causa sua esse* rule.”



13. The plaintiff/respondent in their submissions informed the court that its representatives already attended the hearing before the 2nd defendant/respondent at the Geospatial Centre at Survey of Lands on the 3rd of March, 2026, and that the 3rd to 5th defendants/applicants failed to attend the said hearing to present their ownership documents and defend their objection to the reconstruction of the deed file.
14. The court duly notes that the land registrar is named as the 2nd defendant in this matter, where there is contention of the proprietorship of the suit parcels and allegations of fraud. Thus, as much as it is within its mandate to reconstruct a parcel file, the same cannot be done especially where a suit has been filed before the court and there are active proceedings going on.
15. While I note that the meeting slated for 3rd March, 2026 already took place, this court cannot issue any orders with respect to the instant application at this stage. As such, the court finds that the notice of motion dated 6th February, 2026 has been overtaken by events, and the same is hereby dismissed. Costs shall be 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. Koile for the Plaintiff

Mr. Angaya for the 3rd to 5th Defendants

No appearance for the Attorney General

