



THE JUDICIARY



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MURANG'A
ELCLOM E002 OF 2025

IN THE MATTER OF AN APPLICATION FOR THE RE-ESTABLISHMENT, FIXING OF
BEACONS AMENDMENT OF THE SURVEY MAP IN RESPECT OF LAND PARCEL
NUMBERS MAKUYU/MAKUYU BLOCK 1/853, 854, 855, 869, 870, 871, 898, 899 AND 9058.

CECILIA WAMBUI WATUKU(Suing as the Administrator of the
estate of NAFTALI WATUKU MBUI-DECEASED) APPLICANT
=VERSUS=

THE LAND REGISTRAR MURANG'A1ST RESPONDENT
THE COUNTY SURVEYOR MURANG'A.....2ND RESPONDENT
FREDRICK WAINAINA.....1ST INTERESTED
PARTY
GRACE WANGECHI.....2ND INTERESTED
PARTY
DAVID W. MBUGUA.....3RD INTERESTED PARTY
ROSE NJERI NJUGUNA.....4TH INTERESTED PARTY
JACOB CHEGE NDUNGU.....5TH INTERESTED PARTY
WANYOIKE NJOROGE.....6TH INTERESTED PARTY
JONATHAN LEAH WACHIRA.....7TH INTERESTED
PARTY
PATRICK CHEGE NDUNGU.....8TH INTERESTED
PARTY
STEPHEN KARIUKI NDUNGU.....9TH INTERESTED PARTY
MIRIAM WANJIRU NDUNGU.....10TH INTERESTED PARTY
GIBSON MUTONGA WANYOIKE.....11TH INTERESTED
PARTY

RULING

(1)This ruling is on the notice of motion dated 13th October, 2025. The motion which is by the Applicant is brought under **Sections 1A, 1B and 3A** of the **Civil Procedure Act**, **Sections 15, 16,17,18 and 19** of the Land Registration Act, **Articles 40 and 159(2) (d) and (e)** of the Constitution of Kenya and all other enabling provisions of the law.

(2)The motion seeks the following orders.

- (i) The Court to order the 1st and 2nd Respondents to amend the current map, open up access roads and restore original boundaries and access roads for land parcel numbers Makuyu/Makuyu Block 1/853, 854, 855, 869, 870,871,898 and 899.**
- (ii) The Court to order the 1st and 2nd Respondents to re-establish and fix beacons for L.R. No. Makuyu/Makuyu Block 1/854, 855, 869, 871 and 9058.**
- (iii) That the costs of this application be provided for.**

(3)The motion is based on eight(8) grounds and is supported by an affidavit sworn by the Applicant dated 13-10-2025.

The gist of the grounds and the supporting affidavit is to following effect. One, the Applicant is the co-administrator of the estate of Naftali Watuku Mbui who is the registered owner of L.R. Makuyu/ Makuyu Block 1/871 which she is in occupation of. Two, on 8-10-2024, the 1st and 2nd Respondents visited the Applicant's land and the adjoining parcels of land which are owned or occupied by the interested parties. A survey exercise was carried out and a report dated 5-11-2024 prepared. It recommended the amendment of the area map to reflect the original Part Development Plan as per the first area list. Three, the 1st Respondent also advised the owners of land parcels numbers Makuyu/Makuyu/ Block 1/ 854, 855, 871, 9058 and 869 to seek a Court order for the re-establishment and fixing of beacons for respective parcels of land as per the original plan. Four, it is imperative and in the interests of justice that the 1st and 2nd Respondents be ordered by this court to amend the current map, open up access roads, restore the original boundaries, access roads, re-establish and fix beacons for land parcel numbers Makuyu/Makuyu Block 1/854, 855, 869, 871 and 9058.

(4) The motion is opposed by all the interested parties except the 9th Respondent. The first interested party says that he opposes the motion because there is a difference between the old and the new map.

(5) The 2nd interested party says that the current boundaries have been in place from 1975 to date. Having been shown their boundaries they knew their neighbours, put up fences and

every land owner is settled on their land. The roads in the original map should be respected instead of being closed by the new map. This will minimize land disputes.

- (6) The 5th interested party says that he goes by the old map because he has already developed his land.
- (7) The 7th and 10th interested parties have sworn a joint replying affidavit dated 25-2-2026 in which they oppose the motion saying the new boundaries should not be established and there is no one in need of any access road and all that they are interested in is the fixing of the beacons for L.R. No. 869. The 8th interested party is also opposed to the motion.
- (8) Finally, the 9th interested party is not opposed to the motion because the ground and the maps should agree and currently, they do not agree.
- (9) I have carefully considered the motion in its entirety including the grounds, the supporting affidavit, the replying affidavit and the oral submissions by some of the parties.

I find that the following issues arise.

- (i) **Whether there is a new map and the old map competing against each other.**
 - (ii) **Whether there is evidence of interference with the original boundaries.**
 - (iii) **Whether the orders sought should issue.**
- (10) On the first issue, I find that there are two maps. The original map shows roads between parcels numbers **860** and **870**, **869** and **871** which do not exist in the current map. It is very ambiguous when some of interested parties say that they support the old map but not the new one. It seems to me that the old map is the one which had more roads when the current one has fewer roads and the Applicant and the Respondents wish to restore the original boundaries found in the old map. When some of the interested parties say that they prefer the old map, I understand that to mean the status quo, that to say , as it is now. This is the map with fewer roads.
 - (11) I find that there is evidence of interference with the original boundaries. There is a letter dated 15-10-2002 written by Gatome and Associates to the Chairman of Makuyu Land

Tribunal. Gatome and Associates describe themselves as licensed Land Surveyors, Engineering Surveyors and Planners and Land Consultants.

The letter reads as follows in part.

“The above boundary dispute was attended on 11-10-2002 and witnessed by the land tribunal elders, security officers and village elders.

It was established from the village elders that the strip in dispute was originally a road which was extinguished as it was found to be redundant and each of the parcels in dispute benefited by half of the width of the road.

After carrying out the survey the proprietor of parcel No. 855 was found to have encroached into parcel No. 854 by approximately 8 ft.”

- (12) Regarding the final issue, I find that the orders sought should issue for the following reasons. Firstly, the original access roads were encroached into by some of the land owners and this encroachment is unlawful and cannot be allowed to stand. Secondly, none of the interested parties is saying that the size of their land will reduce. It seems that it is the beneficiaries of the encroachment who want to continue occupying land which they do not own. Finally, this court cannot allow anarchy and lawlessness where land owners encroach into roads, built houses thereon and then claim that they cannot be moved. Such impunity cannot be condoned at all.

In conclusion and for the above stated reasons, I **allow** the notice of motion dated 13-10-2025 in terms prayers **1** and **2**.

No order as to costs.

Dated, Signed and Delivered virtually at Murang'a this 4th day of May, 2026.

**M.N. GICHERU
JUDGE.**

Delivered online in the presence of; -

Court Assistants – Jackline and Antony

Applicant’s Counsel – Mr T M Kariuki

1st Interested party – Present

2nd Interested party – Present

3rd Interested party – Absent

4th Interested party – Present

5th Interested party – Present

6th Interested party – Absent

7th Interested party – Present

8th Interested party – Present
9th Interested party – Present
10th Interested party – Present
11th Interested party – Absent