

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT**  
**KITALE**  
**ELC NO. E040 OF 2025**

**ALICE NYANJUGU GETHI &  
MARK WAMUGUNDA GETHI**  
*(Administrators of the Estate of the late*  
**GEORGE WANJUKI GETHI-----**  
**PLAINTIFFS/APPLICANTS**  
**VERSUS**

**CHIEF LAND REGISTRAR  
NAIROBI LAND REGISTRY-----1<sup>ST</sup>**  
**DEFENDANT/RESPONDENT**  
**ATTORNEY GENERAL-----2<sup>ND</sup>**

**DEFENDANT/RESPONDENT**  
**AND**  
**PRINCIPAL SECRETARY  
STATE DEPARTMENT FOR COOPERATIVES  
IN THE MINISTRY OF COOPERATIVES &  
MSMES DEVELOPMENT-----**  
**INTERESTED PARTY**

**RULING**

**1.** The court, by an application dated **18/12/2025**, is asked to grant leave to enter an interlocutory judgment against the 1<sup>st</sup> and 2<sup>nd</sup> defendants who have, despite service of court summons, failed to enter an appearance and defend the suit. The reasons are contained on the face of the application

and in a supporting affidavit sworn by Mark Wamugunda Gethi, on the same date.

2. It is deposed that the applicants are co-administrators of the estate of the late George Wanjuki Gethi, who was the registered owner of **L.R. No. 7156/8** Kitale, registered under the repealed Registration of Titles Act as Grant **No. I.R. 7149**, the suit property.
3. The applicants moved to this court vide a plaint dated **5/8/2025**, seeking removal of a caution against the title registered on **29/8/2007**, by the interested party, after numerous attempts to have it lifted, requested the issuance of a provisional title as well as for reconstruction of the register or deed file after the original title got lost and were unsuccessful to transfer the suit property to the personal representatives in line with the confirmation of grant as per annexures marked **MWA-(1), (2), (3), (4), (5), 6(a), and (b), 7(a) and (b), and (8)**.
4. The applicants deposes that despite service of summons as per annexure marked **MWA (9)**, the respondents have failed, neglected, and or refused contrary to **Order 6 Rule 1** of the Civil Procedure Rules to enter an appearance or to file a defence.
5. The applicants state that it is in the interest of justice, fairness, and equity to grant leave to seek

the entry of summary judgment against the defendants in the light of the plaint dated **5/8/2025**.

- 6.** After the application was served, the defendants and the interested party entered an appearance on **3/2/2026**.
- 7. Order 10 Rule (8)** of the Civil Procedure Rules provides that no default judgment can be entered against the government without the leave of the court.
- 8. Order 10 Rule (9)** of the Civil Procedure Rules provides that in all suits not otherwise specifically provided for by this order, and upon service, a party does not appear, the plaintiff may set the suit down for hearing.
- 9.** Other than seeking an order to lift the caution registered in the lands register, there is a prayer for a permanent injunction against the defendants to vacate and cease obstruction, occupation, or interference with the plaintiff's use, possession, and enjoyment of the suit property.
- 10.** It appears from the court record that the service of his application has prompted the defendants and the interested party to enter an appearance.
- 11.** Given these developments, I find that the application has been overtaken by events. It is marked as spent. The defendants and the interested

party are hereby directed to file and serve their statements of defence within **30** days from the date **hereof**, together with supporting witness statements and lists of documents; in default, the plaintiff is to list the matter for hearing to proceed as if undefended.

**12.** Costs to the applicants.

**13.** Orders accordingly.

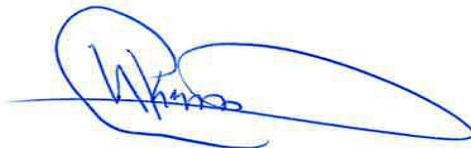
**Ruling dated, signed, and delivered** via **Microsoft Teams/Open Court** at **Kitale** on this **13<sup>th</sup>** day of **May 2026**.

**In the presence of:**

Court Assistant - Dennis

Yunis for the plaintiff/applicant present

No appearance of the Attorney General.



**HON. C.K. NZILI  
JUDGE, ELC KITALE.**