



**Njuguna v Josenga Co Ltd (Environment and Land Case
26 of 2023) [2025] KEELC 5600 (KLR) (24 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5600 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ENVIRONMENT AND LAND CASE 26 OF 2023**

JM KAMAU, J

JULY 24, 2025

BETWEEN

ROBERTSON NJOROGE NJUGUNA PLAINTIFF

AND

JOSENGA CO LTD DEFENDANT

RULING

1. Before me is an Application dated 28/3/2025 by way of Notice of Motion under section 1A, 1B and 3A of the [Civil Procedure Act](#) and Order 42 Rule 6 (1) of the Civil Procedure Rules.
2. The same was brought under Certificate of Urgency on even date. The same is for stay of execution of the Judgment/Decree dated 20/2/2025 pending the hearing and determination of the intended Appeal. The purport of the Decree is that the Plaintiff/Applicant Robertson Njoroge Njuguna and his son Kahungura Njoroge, their family members, servants, agents and/or any other person(s) claiming title under them to vacate Title No. Nyandarua/Ndemi/2021 forthwith in default of which they shall be forcefully evicted.
3. Further, an injunction restraining the Plaintiff and his son from undertaking any further construction or undertaking any other activities on the aforesaid Title No. Nyandarua/Ndemi/2021.
4. The grounds upon which the Applicant hinges his Application is that he and his family stood to suffer substantial loss in event of being evicted from the suit property where they have been cultivating food crops for their family's subsistence and livelihood.
5. He further states that he has constructed a man-made dam on the suit property where he gets water for his livestock and that the Defendant/Respondent has never been in possession of any portion of the property. He says that the Plaintiff is ready and willing to deposit his original Title Deed for land parcel No Nyandarua/Ol-kalou Salient/3396 valued at Ksh 850,000/= in Court as security for "close performance of the Decree"



6. He swore an Affidavit in support of the Application sworn on even date reiterating the same grounds. The Plaintiff had earlier been granted stay of execution which expired on 19/3/2025.
7. In a Replying Affidavit sworn on 30/4/2025, the Defendant /Respondent claimed that the Applicant has not demonstrated the alleged substantial loss he stands to suffer if the stay is not granted.
8. The Defendant's Director who has sworn the said Affidavit , Isabel Wanjiru Ngugi depones that the Respondent has the means to restitute the Applicant should she lose in the Appeal. She further says that the Applicant has never been in possession of the suit land and evidence was adduced to that effect and that the claim that the Plaintiff talks about was never brought in the pleadings nor in his evidence.
9. Finally, the Respondent depones that this is a delaying tactic to ensure that she does not enjoy the fruits of her judgment and therefore the said Application should be dismissed with costs.
10. In the Decree by my brother Angima J. dated 20.2.2025, the Judge gave an order of the Plaintiff to vacate the suit premises forthwith in default of which he be forcefully evicted.
11. Any attempt at granting the current Application would mean the negation of the Decree thereon. The Defendant has been kept of the suit land for over 10 years.
12. However, I will order that the Applicant do vacate the suit premises within the next 120 days and also to be allowed to harvest his current crop to give way to the Respondent to make use of her land.
13. And as security for costs, I order the Applicant to pay the Respondent's Advocates the sum of Kshs 100,000/- within the next 45 days from the date hereof.
14. Further, for the sake of securing the substratum the Respondent shall not thereafter lease or in any other way dispose the suit land to a third party until the hearing and determination of the intended Appeal.
15. Failure to comply with any of the above on its due date shall render the Decree herein executable.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 24TH DAY OF JULY, 2025

HON MUGO KAMAU

JUDGE

In the presence of:-

Samson - Court Assistant

For the Applicant Ms Ndegwa

For the Respondent - Ms Ndungu

