



**Republic v Land Registrar, Kisii County; Nyagaka (Interested Party);
Rwenyi (Ex parte) (Environment and Land Case Judicial Review Application
E001 of 2024) [2025] KEELC 5576 (KLR) (22 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 5576 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISII
ENVIRONMENT AND LAND CASE JUDICIAL REVIEW APPLICATION E001 OF 2024**

**M SILA, J
JULY 22, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

LAND REGISTRAR, KISII COUNTY RESPONDENT

AND

LEONIDA NYABOKE NYAGAKA INTERESTED PARTY

AND

SAMWEL ONSONGO RWENYI EX PARTE

RULING

1. Before me is an application dated 6 November 2024. It was filed under certificate of urgency on 27 November 2024 but only came to my attention on 25 June 2025 hence the delay in its disposal. It is an application seeking leave to commence judicial review proceedings in the nature of mandamus to compel the Land Registrar, Kisii County, to remove a caution lodged by the interested party in the register of the land parcel West Kitutu/Bogusero/5605. The said land is in the name of the ex parte applicant and the caution was registered on 27 January 2020. I am made to understand that the interested party is wife to the ex parte applicant.
2. The ex parte applicant contends that this caution was registered fraudulently and he was not notified of the same. He avers that he only came to know of the caution after he had entered into an agreement to sell the land. He states that he has applied for removal of the caution but the respondent has failed to act in accordance with Section 73 of the *Land Act*, Act No. 6 of 2012, hence the suit.



3. At this point, all I am required to do is consider whether or not to grant the leave sought and I will avoid going to the merits or otherwise of the suit.
4. The ex parte applicant contends that the respondent has abdicated his duties under Section 73 of the *Land Act*. I will allow him a chance to ventilate his accusations.
5. I therefore grant leave to the ex parte applicant to commence the intended proceedings. The main motion be filed and served within the next 21 days. Upon service, the respondent and interested party have 21 days to file their responses.
6. The costs of this application will be costs in the main motion.
7. Orders accordingly.

DATED AND DELIVERED THIS 22ND DAY OF JULY 2025

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

AT KISII

