



**Waititu & another v Gurenda (Environment and Land Case
E064 of 2024) [2025] KEELC 5439 (KLR) (17 July 2025) (Judgment)**

Neutral citation: [2025] KEELC 5439 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E064 OF 2024
LC KOMINGOI, J
JULY 17, 2025**

BETWEEN

ANNABELL WAGITHI WAITITU 1ST PLAINTIFF

ELIZABETH MUENI KIIO 2ND PLAINTIFF

AND

NKAI GURENDA DEFENDANT

JUDGMENT

1. By the Plaint dated 21st June 2024, the Plaintiffs claim that in the year 2014, they as Trustees of Institute of Environment and Water Management Services purchased property Kajiado/ Dalalekutuk / 6XX9 measuring approximately 0.3 hectares for Kshs. 900,000 from one Gurenda Sialala, the Defendant's late husband. Upon the purchase, all required documents were executed, transfer effected, and a title issued in their favour. The late Gurenda and his family then moved out of the property and gave them vacant possession.
2. Sometime in the year 2018, the late Gurenda Sialala and his wife (the Defendant herein) sought a place to stay for a period of two weeks as they sorted out some issues in Kajiado town. The Plaintiffs allowed them to stay at the property for that period of time. They remained on the suit property until six months later when Gurenda Sialala passed away and was buried on the adjacent parcel of land. Upon his demise, the defendant continued to occupy the suit property and has been residing thereon since then. She has refused to vacate despite several notices.
3. The Plaintiffs claim that her presence on the property has frustrated their attempt at selling the suit property and they stand to suffer great financial loss due to that. They therefore seek that:
 - i. A mandatory order directing the Defendant, her agents, employees, assignees and/or any other person authorised by her to quit, vacate and/or handover vacant possession of property Kajiado/Dalalekutuk/6XX9.



- ii. Eviction orders to issue against the defendant from property Kajiado/Dalalekutuk/6XX9.
 - iii. The Officer Commanding Station (OCS) Kajiado to oversee the Defendant's eviction.
 - iv. A declaration be issued that the Defendant has trespassed and is in continued trespass onto the Plaintiffs property Kajiado/Dalalekutuk/6XX9.
 - v. Compensation for breach of the Plaintiffs right to property under Article 40 of the Constitution.
 - vi. Costs of this suit.
 - vii. Any other reliefs that the Hon. Court may deem fit.
4. The Defendant who was duly served with pleadings and summons to enter appearance neither entered appearance nor filed a statement of defence.

Evidence of the Plaintiffs.

5. PW1, Annabell Waititu, the 1st Plaintiff adopted her witness statement dated 21st June 2024 as her evidence in chief and produced her bundle of documents marked as exhibits.
6. She stated that in 2014, they purchased the suit property from Gurenda Sialala and his family who gave them vacant possession. However, there was a structure on the land, which was not demolished upon the purchase. Sometime between 2017 and 2018, the late Gurenda Sialala and the Defendant sought permission to stay on the property for two weeks and the permission was granted. They stayed longer than the agreed time and he passed away while on the land. He was buried on the adjacent property. Upon his demise, they asked his wife, the defendant to vacate the property but she refused. They thus seek Court's intervention.
7. PW2, Elizabeth Mueni, the 2nd Plaintiff adopted her witness statement dated 21st June 2024 as her evidence in chief together with the bundle of documents marked as exhibits.
8. At the close of the oral testimonies, the Plaintiffs tendered their final written submissions.

Submissions of the Plaintiffs.

9. The following were the outlined issues for determination by the Plaintiffs.
10. On whether the Plaintiffs are the owners of the suit property, counsel submitted that the Plaintiffs purchased the suit property and were issued with a title deed and were thus the legal owners by dint of Section 24 and 26 of the *Land Registration Act*.
11. On whether the defendant had trespassed on the suit property, it was submitted that under the defendant entered the property 7 years ago and had remained on it without consent which is a clear act of trespass as per the *Trespass Act*. Counsel added that the Defendant did not file a defence and thus the Plaintiffs case was uncontroverted. The Plaintiffs prayers should therefore be allowed with costs.

Analysis and Determination.

12. I have considered the pleadings, the evidence on record, the written submissions, and the authorities cited. I find that the issues for determination are:
 - i. Whether the Defendant has trespassed on the Plaintiffs property Kajiado/Dalalekutuk/6XX9;
 - ii. Whether the Plaintiffs are entitled to the reliefs sought;



- iii. Who should bear costs of the suit?
13. It is in not in contention that the Plaintiffs as Trustees of the Institute of Environment and Water Management acquired the suit property from one Gurenda Sialala and a title deed dated 25th April 2014 issued in their favour. A sale agreement between them and the said Gurenda dated 14th January 2014 was also produced as evidence.
14. They seek eviction orders against the Defendant on grounds that her together with her now late husband, were allowed to occupy the Plaintiffs' property sometime in 2018 for a few weeks, but have continued to occupy it despite being asked to vacate. To support the claim, the Plaintiffs produced photos of a house in some land and in one of the photos, there is a lady standing next to the house.
15. While the photos do not speak into the act of trespass, the Defendant did not file a defence to controvert the plaintiffs' claim. I am satisfied that, if the defendant is on the Plaintiffs land Kajiado/Dalalekutuk/6XX9, hence she should vacate the same.
16. The Plaintiffs also sought for compensation for breach of their right to property. The Defendant entered the suit property with the permission of the Plaintiffs: I decline to award any.
17. I have considered circumstances of the case and finds that in the interest of justice, parties should bear their own costs of the suit.
18. Accordingly, Judgement is entered for the Plaintiffs as against the Defendant as follows;
 - i. That the Defendant her agents, employees, assignees and/or any other person authorised by her is hereby ordered to vacate the land known as Kajiado/Dalalekutuk/6XX9 forthwith.
In default the Plaintiffs be at liberty to evict the Defendant from the land known as Kajiado/Dalalekutuk/ 6XX9.
 - ii. That the Officer Commanding Station (OCS) Kajiado Police Station do ensure compliance of the above orders.
 - iii. That each party shall bear their own costs of the suit.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 17TH DAY OF JULY 2025.

L. KOMINGOI

JUDGE.

IN THE PRESENCE OF:

Mrs. Kimani for the Plaintiffs.

N/A for the Defendant.

Court Assistant – Mateli.

