



**Nyakangi v Attorney General & 5 others (Environment & Land Petition 1 of 2021) [2024] KEELC 499 (KLR) (30 January 2024) (Ruling)**

Neutral citation: [2024] KEELC 499 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA  
ENVIRONMENT & LAND PETITION 1 OF 2021**

**JM KAMAU, J  
JANUARY 30, 2024**

**BETWEEN**

**CHARLES OKEMWA NYAKANGI ..... PLAINTIFF**

**AND**

**ATTORNEY GENERAL ..... 1<sup>ST</sup> DEFENDANT**

**CABINET SECRETARY, MINISTRY OF PUBLIC HEALTH AND  
SANITATION ..... 2<sup>ND</sup> DEFENDANT**

**CONSTITUENCY DEVELOPMENT FUND (WEST MUGIRANGO) .... 3<sup>RD</sup>  
DEFENDANT**

**CHIEF LAND REGISTRAR ..... 4<sup>TH</sup> DEFENDANT**

**NYAMOKENYE HEALTH CENTER ..... 5<sup>TH</sup> DEFENDANT**

**COUNTY SURVEYOR, NYAMIRA COUNTY ..... 6<sup>TH</sup> DEFENDANT**

**RULING**

1. Before me are Reports by the Regional Surveyor dated 16<sup>th</sup> November 2023 pursuant to the order issued by this court on 27/7/2023. It needs to go on record that the order to have the Regional Surveyor carry out this exercise was necessitated by persistent and deliberate failure to carry out the same by the County Surveyor, Mr. Abuga. The terms of reference were to visit the suit land and determine the existence of encroachment and if so, the size of the same.
2. The Regional Surveyor said that the pointed out that the parcel of land has a Health Center built thereon. He concluded his Report by saying that there is no encroachment to Parcel No. Kisii/ West Mugirango/Bomabacho/481 and that Kisii/ West Mugirango/Bomabacho/478 is a public land reserved for the Gusii County Council, the precursor to Nyamira County Government, for public use. As expected, the 5<sup>th</sup> Respondent agrees with this Report.



3. On the other hand, the Petitioner disagrees with the Report. This Report tallies with that of the Land Registrar, Mr. George K. Maina dated 31/5/2023.
4. In the circumstances, I invite the Authors of the above two Reports together with the Petitioner's Surveyor's Report to defend their Reports in court.
5. Ruling dated, signed and delivered at Nyamira this 30th day of January 2024.

**MUGO KAMAU**

**JUDGE**

In the presence of: -

C/A: Brenda

Petitioner present in person

Respondent – Ms. Moeche for the 5<sup>th</sup> Respondent

