



**Kagiri (Suing as the legal representative of the Estate of Robert Kagiri Wakahiu - Deceased) v Kimondo & another (Land Case E018 of 2024) [2025] KEELC 651 (KLR) (19 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 651 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI  
LAND CASE E018 OF 2024  
LN MBUGUA, J  
FEBRUARY 19, 2025**

**BETWEEN**

**LINUS MWANGI KAGIRI ..... PLAINTIFF  
SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF ROBERT  
KAGIRI WAKAHIU - DECEASED**

**AND**

**DANIEL WAMUGUNDA KIMONDO ..... 1<sup>ST</sup> DEFENDANT  
SIMPLY CITY PROPERTIES LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. Before me is the plaintiff's application dated 29.8.2024 seeking injunctive orders against the defendant. The application is premised on the grounds on the face of the application and the affidavit of the plaintiff who has filed the suit as an administrator of the estate of Robert Kagiri Wakahiu ( Deceased). He contends that the suit property Euaso Nyiro/Suguroi/Block IV/250 belonged to the deceased, but a green card reveals that the same was transferred to the 1<sup>st</sup> defendant on 10.7.2017, then to the 2<sup>nd</sup> defendant on 27.4.2021. The applicant is apprehensive that the defendants may dispose off the suit property.
2. The 1<sup>st</sup> defendant has opposed the application vide his replying affidavit dated 5.11.2024 where he has given an account of how he bought the suit property from one Linus Mwangi Kagiri and a transfer document was executed in his favour on 5.6.2017, adding that there was no fraud or collusion in the sale transaction.
3. I have considered all the arguments raised herein including the rival submissions. It is quite apparent that the protagonists are having competing claims of ownership to the suit property. In the case of



Cyanamid Co. vs Ethicon Ltd (1975) 1 ALL ER 504; (1975) A.C 396 HL cited in Tritex Industries Limited & 3 others vs National Housing Corporations & another [2014] eKLR, it was held that;

“It is no part of the court’s function at this stage of the litigation to try to resolve conflicts of evidence on affidavit as to facts on which the claims of either party may ultimately depend, nor to decide difficult questions of law which call for detailed argument and mature considerations. These are matters to be dealt with at the trial”.

4. Thus the question of ownership ought to be dealt with in a full trial and not in interlocutory applications. It is however crucial to give orders of preservation of the subject matter through an order of injunction. In the circumstances, the application dated 29.8.2024 is allowed on condition that the injunctive orders shall remain in force for a period of ONE YEAR from the date of delivery of this ruling. The costs of the application shall abide the outcome of the suit.

**DATED, SIGNED AND DELIVERED AT NANYUKI THIS 19<sup>TH</sup> DAY OF FEBRUARY 2025 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:

Muhonja for Defendants

Moriasi for Plaintiff

Nancy Mwangi – Court Assistant

