



**Gichuru v Gichuru & 2 others (Environment and Land Appeal  
E001 of 2023) [2025] KEELC 3300 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 3300 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA  
ENVIRONMENT AND LAND APPEAL E001 OF 2023**

**JM KAMAU, J**

**MARCH 27, 2025**

**BETWEEN**

**LUCY WANGARI GICHURU ..... APPLICANT**

**AND**

**BARTHOLOMEW GATHUO GICHURU ..... 1<sup>ST</sup> RESPONDENT**

**THE LAND REGISTRAR NYAHURURU ..... 2<sup>ND</sup> RESPONDENT**

**DANIEL KIRURI KURUGA ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. In the Application dated 21/2/2023 the Applicant seeks for Orders that this court be pleased to extend the inhibition Order issued on 15/2/2024 on Title No. Nyandarua/Ol Joro Orok Salient/4360 preventing any dealings on the land pending the hearing and determination of Nyahururu Chief Magistrate Court ELC No. E008 of 2023. The grounds upon which the Application is predicated are that an inhibition Order had been issued on 15/2/2024 against the said Title whose tenure was one (1) year. The suit land is still the subject of the case at the Chief Magistrate's Court, Nyahururu. This court directed that the aforesaid case be expeditiously prosecuted. That failure to determine the Chief Magistrate's case is not attributable to the parties to the said suit and that the same is scheduled for hearing on the 2/4/2025. Finally, the Applicant fears that should the Orders not be extended this would cause irreparable harm to the Applicant for any transfer of the suit parcel of land would render the pending suit an exercise in futility. The failure to prosecute the case in the subordinate court is partially attributable to the ill health of the Applicant and she has attached copies of treatment records as proof of this.
2. In his Replying Affidavit, sworn on 10/3/2025, the 1<sup>st</sup> Respondent Batholomew Gathuo Gichuru responded that he is the registered proprietor of Nyandarua/Ol Joro Orok Salient /4360 which property does of form part of matrimonial property. He stated that the Affidavit in support of the



Application sworn on 6/3/2025 was a forgery since the signature therein is not that of the Applicant who is a former wife of the 1<sup>st</sup> Respondent. In order to substantiate this, he has attached four (4) documents sampling the Applicant's signature and confirms that her genuine signature is the one in the Originating Summons and on the Notice of Motion dated 1/10/2018. He claims that the Applicant is to blame for the delay in prosecuting the cause in the lower court since the last adjournment was occasioned by herself and the same is scheduled for hearing on 2/4/2025.

3. I allowed parties to argue the Application orally in court where the Applicant's counsel opted to rely on the Applicant's grounds on the face of the Application dated 21/2/2025 and the depositions in the attached Affidavit. On his part, Counsel for the 1<sup>st</sup> Respondent said that there is no pending Appeal, but only the pending suit in Nyahururu Chief Magistrate's court and that it is their daughter who must have filed the Application. Ms. Mureithi for the 3<sup>rd</sup> Respondent associated herself with the submissions of Mr. Waiganjo for the 1<sup>st</sup> Defendant. She added that the current Application is a replica of an earlier one which was heard and fully determined on 15/2/2024 and the Orders granted therein have already expired. This Appeal was therefore finalized and the court is now functus officio. Interestingly, what the Applicant is seeking in the lower court is an inhibition and by coming to this court he is seeking for Orders that should first be granted or denied in the lower court before an Appeal is filed.
4. I do agree with Counsel for the Respondent that this court is now functus officio. The Orders sought were granted for one (1) year. That disposed of the Appeal herein and the same cannot be re-opened. If this were allowed then there would be no end to litigation. The Applicant is to blame for not expediting the hearing in the case in the lower Court since she all along knew that the tenure for the inhibition issued by this court was coming to an end on 15/2/2025.
5. The Applicant's Application dated 21/2/2025 is therefore dismissed with costs.

**RULING DATED, SIGNED AND DELIVERED AT NYANDARUA THIS 27TH DAY OF MARCH 2025.**

**MUGO KAMAU**

**JUDGE**

In the Presence of: -

Court Assistant: Eric.

.....for the Applicant

..... for the Respondents

