



**Kinyua & 3 others v Githunguri Constituency Ranching Company Limited;  
Land Registrar Ruiru (Interested Party) (Miscellaneous Application  
E045 of 2022) [2023] KEELC 332 (KLR) (20 January 2023) (Judgment)**

Neutral citation: [2023] KEELC 332 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
MISCELLANEOUS APPLICATION E045 OF 2022  
BM EBOSO, J  
JANUARY 20, 2023**

**BETWEEN**

**JULIANA WANGUI KINYUA ..... 1<sup>ST</sup> APPLICANT  
ANTHONY MUCHIRI GITIRA ..... 2<sup>ND</sup> APPLICANT  
BONIFACE EPHANTUS MBOGO ..... 3<sup>RD</sup> APPLICANT  
PURITY KATHAMBI GITUMA ..... 4<sup>TH</sup> APPLICANT**

**AND**

**GITHUNGURI CONSTITUENCY RANCHING COMPANY  
LIMITED ..... RESPONDENT**

**AND**

**THE LAND REGISTRAR RUIRU ..... INTERESTED PARTY**

**JUDGMENT**

1. This suit was initiated through a Miscellaneous Application dated July 7, 2022. Through the application, the applicants seek an order lifting the restrictions placed by the respondent and the interested party against the land registers relating to parcel numbers: (i) Ruiru/Kiu Block 2/7222 - owned by the 1st applicant; (ii) Ruiru Kiu Block 2/7223 - owned by the 2nd applicant; and (iii) Ruiru Kiu Block 2/7224 - jointly owned by the 3rd and 4th respondents [the suit properties].
2. The applicants contend that in or about March 2021, they became aware of Thika ELC Case No 009 of 2021 which had been filed by one Boniface Muchara Kangethe and Peter Kihugu Kangethe against them and several other persons. After perusing the plaintiffs' pleadings, they realized that the respondent and the interested party had placed restrictions on their titles following complaints made to them by the plaintiffs in the said suit.



3. It is the case of the applicants that they diligently mounted defences in the said suit and through a ruling rendered on June 8, 2022 on a preliminary objection raised in the said suit, the court [Thika ELC] struck out the above suit. They add that no appeal had been lodged against the said ruling and there was no court order negating the ruling. They add that it is only just that the restrictions placed on their properties be lifted to enable them freely enjoy their right to property as enshrined in the Constitution.
4. On October 4, 2022, the applicants were granted leave to serve the application through a notice in either the Daily Nation or the Standard Newspapers. An affidavit of service was subsequently filed by the applicants, indicating that the respondent and the interested party had been served through a notice published in the Standard Newspaper on November 21, 2022. The respondent and the interested party did not file responses to the application. They similarly did not appear during the hearing of the application on January 19, 2023.
5. I have considered the uncontested application. The applicants have demonstrated that they are the respective registered proprietors of the suit properties. They have also demonstrated that the respondent and the interested party caused the impugned restrictions to be placed against the parcel registers relating to the suit properties. The respondent and the interested party did not respond to the invitation extended to them to step forward and show cause why the prayer sought in the application should not be granted.
6. The right to enjoy one's own property is guaranteed by Article 40 of the Constitution. This constitutional protection is further safe-guarded and ring-fenced by Sections 24 and 25 of the Land Registration Act, 2012. In the absence of any opposition to the application, the court is obliged to accord the applicants the protection conferred by Article 40 of the Constitution and by Sections 24 and 25 of the Land Registration Act.
7. The result is that the application dated July 7, 2022 is allowed in terms of prayer (b). Given that the application was uncontested, there shall be no order as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 20TH DAY OF JANUARY 2023**

**B M EBOSO**

**JUDGE**

Ms Naazi holding brief for Mr Kithi for the Applicants

Court Assistant: Ms Osodo

