



**Mwito Housing Co-operative Society Limited v Ntaya & 3 others (Environment and Land Case E087 of 2025) [2025] KEELC 8210 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8210 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT KAJIADO**  
**ENVIRONMENT AND LAND CASE E087 OF 2025**  
**LC KOMINGOI, J**  
**NOVEMBER 27, 2025**

**BETWEEN**

**MWITO HOUSING CO-OPERATIVE SOCIETY LIMITED ..... PLAINTIFF**

**AND**

**ISAAC TUMPES NTAYIA ..... RESPONDENT**

**AND**

**WILLIAM KIPKURUI NGENO ..... 1<sup>ST</sup> DEFENDANT**

**LAND REGISTRAR KAJIADO ..... 2<sup>ND</sup> DEFENDANT**

**ATTORNEY GENERAL OF THE REPUBLIC OF KENYA ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. This Ruling is in respect of the Notice of Motion dated 29<sup>th</sup> May 2025 brought under; Sections 3, 3A & 63 of the Civil Procedure Act Cap 21 Laws of Kenya, and under Order 40 of the Civil Procedure Rules - 2010, and under any other provisions of Laws of Kenya.
2. It seeks orders;
  1. Spent.
  2. Spent.
  3. That pending the hearing of the suit herein this Honourable Court be and is hereby pleased to order a physical measurement and re-surveying of the Plaintiff/Applicant's parcel of land Kajiado/Kitengela/ 107328, the 1<sup>st</sup> Defendant/Respondent's parcel of land Kajiado/ Kitengela/117785 and the 3<sup>rd</sup> Defendant/Respondent's parcel of land Kajiado/ Kitengela/117785 with view to establish the actual boundaries of the said parcels as per the registered title deeds of the said parcels of land.



4. That pending the hearing and determination of the suit herein this Honourable Court be and is hereby pleased to restrain the Defendants/Respondents either by themselves, servants, or agents from adjusting their boundaries or demolishing or interfering with the Plaintiffs/ Applicant's developments on the parcel of Land Kajiado/Kitengela/107328.
5. That Costs of the application be in the cause.

3. The grounds are on the face of the Application and are set out in paragraphs 1 to 4.
4. The Application is supported by the affidavit of Ephantus Karubiu, an official of the Plaintiff/ Applicant, sworn on the 29<sup>th</sup> May, 2025.
5. It appears that the 1<sup>st</sup> Defendant/Respondent did not file any response to the Notice of Motion.
6. The 2<sup>nd</sup> Defendant/Respondent filed a Replying Affidavit sworn on the 21<sup>st</sup> August 2025.
7. The 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents did not file any responses.
8. The Notice of Motion was canvassed by way of written submissions.
9. The Plaintiff/Applicant's submissions are dated 21<sup>st</sup> October 2025.
10. It appears the 2<sup>nd</sup> Respondent did not file any written submissions.
11. I have considered the Notice of Motion, the affidavit in support, the response thereto, the written submissions. The issue for determination is whether the Application is merited.
12. The conditions for grant of temporary injunction were set out in the case of *Giella vs. Cassman Brown & Co. Limited* (1973) EA 358.
13. I agree with the 2<sup>nd</sup> Defendant/Respondent's averment that Kajiado/Kitengela/107328 has since been subdivided hence it does not exist. I therefore decline to grant an order of temporary injunction.
14. However, I think there is need to establish the boundaries of Kajiado/Kitengela/107328 (originally)
15. I therefore grant prayer no. 3 of the Notice of Motion. The costs shall abide the outcome of the main suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 27<sup>TH</sup> DAY OF NOVEMBER, 2025.**

.....

**L. KOMINGOI**

**JUDGE**

In the presence of:

N/A for the Plaintiff/Applicant.

Mr. Itaya for Mr. Kirui for the 2<sup>nd</sup> Defendant/Respondent.

N/A for the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> Defendants.

Court Assistant – Peter.

