A Right to a Home – Even by the River

A Nairobi judgment says: flood protection is legitimate. But it does not allow evictions without due process.

At the end of April 2024, the then Interior Cabinet Secretary ordered everyone living in high-risk areas to leave their homes within 48 hours. Heavy rains had flooded parts of Nairobi. In May and June 2024 the bulldozers came, escorted by police. Along the rivers they tore down homes, shops, schools and churches, Korogocho included. On 16 November 2026, the Environment and Land Court in Nairobi ruled on these events. Justice C. G. Mbogo delivered judgment in *Mohamed & 75 others v Nairobi Rivers Commission & 16 others*.

What the case was about

On 2 April 2025, 75 residents went to court. They sued on their own behalf and for around 3,000 evicted people from Korogocho and seven other slums: Kamukunji, Kayole, Soweto, Kibera, Shimo la Tewa, Mukuru Kayaba and Mukuru Viwandani. They took eleven government bodies and offices to court, from the Nairobi Rivers Commission to the police oversight authority. Organisations involved in the case included the Kenya National Commission on Human Rights, the Law Society of Kenya, Amnesty International and the legal aid groups Kituo cha Sheria and Sheria Mtaani.

What the court found

The authorities relied on the general order to leave high-risk areas. According to the judgment, that is not enough. Kenya's Land Act requires that an eviction from public land be announced at least three months in advance: in the Kenya Gazette, in a national newspaper and, where appropriate, on the radio. The eviction itself must follow fixed rules. Those carrying it out must identify themselves and present formal authorisation. The dignity and safety of the people affected must be protected, especially those of the most vulnerable. People must be given the chance to save their belongings.

The Nairobi Rivers Commission, the Inspector General of Police and the Interior Cabinet Secretary did not put a single piece of evidence before the court to show that they had followed these rules. Nor did they show that the flood emergency made it impossible to do so. The court therefore found three rights violated: human dignity, the right to accessible and adequate housing, and the right to fair administrative action.

> **The heart of the judgment:** The government was entitled to protect people from flooding, and in some circumstances it was obliged to. But protecting people from disaster and respecting their dignity are not mutually exclusive. A legitimate aim excuses neither evictions without the required procedure nor needless destruction.

Justice Mbogo relies on a 2021 Supreme Court decision in the *Mitu-Bell* case. It holds that people who have lived on public land for a long time do not become its owners, but they do acquire a right to housing that deserves protection. Having no title deed, or a home on the riverbank, does not strip anyone of their fundamental rights.

What has been ordered

Working with other public authorities and with representatives of the affected communities, the Nairobi Rivers Commission and the Interior Cabinet Secretary must

- identify and verify who was displaced,
- establish how these people are living today,
- consider support, including temporary shelter, resettlement and other social protection,
- file a report within 90 days and serve it on the petitioners. It must show how far the identification has progressed, what support is available and the timeline for delivering it.

On 3 May 2027, the court will check whether the orders have been carried out. Each party bears its own costs.

What the court did not decide

The court declined to award damages or compensation for lost property because the evidence was insufficient. So no money will flow from this judgment for now. It dismissed the case against eight of the eleven respondents, including the Nairobi City County, the Lands Ministry and the National Land Commission, because no specific involvement in the demolitions was proven. The court did not recognise any ownership rights over riparian land. Nor did it find enough evidence of violations of the special rights of children, persons with disabilities, young people, minorities and older people, although families and children were affected.

On the 30-metre riparian buffer, the petitioners submitted an expert report. It criticises applying the rule the same way everywhere, without looking at local conditions. The court found the report relevant to the question of whether the evictions were proportionate. But it said the report is no substitute for a survey and does not prove that every demolished building stood outside a protected riparian reserve. The court did not strike down the rule itself.

> **Not to be confused with the 2024 ruling**
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> On 4 November 2024, the High Court in Nairobi had already ruled on evictions after the floods. That case concerned residents of Mathare, Gwa Kairu, Mukuru Kwa Reuben and Kiamaiko and was brought by the organisation Sheria Mtaani. Justice Anne Mogeni awarded those affected compensation for their losses. Korogocho was not part of that case. The new judgment comes from a different court, covers different neighbourhoods and awards no money. Sheria Mtaani is involved again this time, but not as a petitioner.

Why this matters for Korogocho

The judgment sets a clear standard for future action along the Nairobi River. A general order to leave high-risk areas is no substitute for proper notice of an eviction. Whoever carries out an eviction must be able to prove that they followed the rules. And having no title deed does not strip anyone of their fundamental rights.

What remains open

Korogocho is named in the title of the case. Yet the judgment does not attribute any witness statement specifically to Korogocho, and there is no separate figure for affected families from Korogocho. The statements named in the judgment describe demolitions in Shimo la Tewa, Kayole, Soweto and the two Mukuru neighbourhoods. That makes it all the more important that families from Korogocho are included in the ordered identification. Only then can the judgment turn into real help. The report in February and the court review in May 2027 will show how seriously the authorities take the order.

Timeline

- **30 April 2024:** Interior Cabinet Secretary orders residents to leave high-risk areas within 48 hours
- **May/June 2024:** Evictions and demolitions along the rivers
- **2 April 2025:** Petition filed
- **16 November 2026:** Judgment
- **14 February 2027:** Deadline for the 90-day report
- **3 May 2027:** Court review

Sources

- Judgment: Mohamed & 75 others v Nairobi Rivers Commission & 16 others, Environment and Land Petition E040 of 2025, [2026] KEELC 7888 (KLR), 16 November 2026 (Kenya Law)
- Daily Nation: Government given 90 days to assess Nairobi flood evictees (19 November 2026)
- The Standard: Court finds Nairobi slums evictions were illegal, orders compensation (November 2024)