



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Abdalla v Yussuf & 5 others (Environment & Land Case
E035 of 2023) [2025] KEELC 1371 (KLR) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1371 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E035 OF 2023
LC KOMINGOI, J
MARCH 20, 2025**

BETWEEN

ABDI JUMA ABDALLA PLAINTIFF

AND

MOHAMEDFOWZIA HASSAN YUSSUF 1ST DEFENDANT

NOOR ABDI JAMA 2ND DEFENDANT

ILYAS JAMA 3RD DEFENDANT

ABDIRIZAK HASSAN JAMA 4TH DEFENDANT

MOHAMED ABDI JAMA 5TH DEFENDANT

ABDULSWAMAD HUSSEIN OMAR 6TH DEFENDANT

RULING

1. This is the Chamber Summons dated 24th October 2023 brought under; (In pursuance to Order 51 and Order 40 Rules 1,2,3 and 4 of the Civil Procedure Rules 2010, Articles 28 of the Constitution of Kenya, 2010, Section 65 (1) (a) of the Land Act, 2021 Laws of Kenya, Section 3A and 63 (c) and (e) of the Civil procedure Act, Chapter 21 of the Laws of Kenya, and all other enabling provisions of the Law).
2. It seeks orders;
 1. Spent.
 2. Spent.
 3. Spent.
 4. That this Honourable Court do issue an injunction restraining the Respondents by themselves, their servants, agents and/or employees from trespassing onto, harassing,



intimidating and/or in any manner howsoever from interfering and/or interrupting with the Applicant/Plaintiff quiet possession, use and enjoyment of the suit premises being the mosque located on property Title Number Ngong/Ngong/10838 located in the Maasai Lodge area within Kajiado County pending the hearing and final determination of this suit.

5. That A declaration that the Respondent's actions are illegal and in breach and/or violation of the law.
 6. That a mandatory order do issue against the Defendants/Respondents compelling them to forfeit to the Applicant/Plaintiff all monies collected from the Defendants/Respondents land using safaricom pay bill number 8774716.
 7. That the OCS of Ongata Rongai Police Station do enforce this Honourable Court orders.
 8. That the Honourable Court issue punitive and exemplary damages for the wanton, callous and illegal conduct of the Defendants/Respondents.
 9. That costs of this application be in the cause.
 10. That this Honourable Court be pleased to make such further orders to meet the end of justice.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 61.
 4. The Application is supported by the Affidavit of Abdi Juma Abdalla, the Plaintiff/Applicant sworn on the 24/10/2023.
 5. The Application is opposed.
There is a Replying Affidavit sworn by Mohammed Fowzi Hassan Yussuf, one of the Defendants/Respondents, on the 4th December 2024.
 6. The Application was canvassed by way of written submissions.
 7. The Plaintiff/Applicant's submissions are dated 3rd December 2024.
 8. On the 21st January 2025, the Defendants/Respondents were granted seven (7) days to file in their submissions. By the time of writing this ruling they had not filed submissions.
 9. I have considered the Notice of Motion, the Affidavits in support, the response thereto and the written submissions. The issue for determination is whether the Application is merited.
 10. It is not in dispute that the Plaintiff/Applicant is the registered owner of land parcel known as Ngong/Ngong/10838. It is also not in dispute that he allowed the Muslim Community in the locality to access the structure on the suit property for use as a prayer room as required by Islamic Faith.
 11. It is also not in dispute that the Plaintiff/Applicant has never parted with possession the suit property and that the Defendants/Respondents accessed it with his permission. I have considered the cited authorities; *Giella Vs. Cassman Brown & Co. Limited* (1973) E.A 358; *Mrao Limited Vs. First American Bank of Kenya Limited & 2 Others* (20023) KLR 125.
I find that the Plaintiff/Applicant has established a prima facie case with a probability of success at the trial.
The Defendants/Respondents have not been able to demonstrate ownership of the suit property.
 12. I find that the Plaintiff/Applicant has demonstrated that he deserves this court's protection. He has been threatened by the Defendants/Respondents on several instances.



13. The Plaintiff/Applicant was not able to demonstrate that there existed Safaricom Paybill Number 8774716 in which the Defendants/Respondents used to collect monies. This prayer is therefore declined.

14. In conclusion I find merit in this Application and I grant the orders in terms of prayer No. 4 and 7 of the Notice of Motion. The costs shall be borne by the Defendants/Respondents.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 20TH DAY OF MARCH 2025.

L. KOMINGOI

JUDGE.

In the presence of:

Mr. Ondari for the Plaintiff/Applicant.

Mr. Omar for Mr. Ali for the Defendants/Respondents.

Court Assistant – Mutisya.

