



**JKK v JNM (Matrimonial Cause E003 of 2023)
[2023] KEHC 26238 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26238 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
MATRIMONIAL CAUSE E003 OF 2023
TW CHERERE, J
NOVEMBER 30, 2023**

BETWEEN

JKK PLAINTIFF

AND

JNM RESPONDENT

RULING

1. J.K.K and J.N.M (Applicant and Respondent respectively) solemnized their marriage on 10th December, 2005.
2. On 08th August, 2023, Applicant filed an originating summons seeking to be declared to be entitled to Land Parcel Nos. AMwathi/Maua/12622, 13277, 3863, 13874, Plot No. Kirindine ‘A’/61, Nyambene/Kirindine ‘A’/2318, 1160, 1149, 1154, 1153, 1157, Akachiu/Auki/820 and Plot No. 7 Athi Market which Applicant avers were acquired during the subsistence of the marriage.
3. Simultaneously, Applicant on 08th August, 2023 filed a Notice of Motion dated 07th August, 2023 supported by Applicant’s affidavit sworn on 07th August, 2023 stating that Respondent has evicted her and the children from the matrimonial home and she is apprehensive that Respondent might dispose off what she claims is matrimonial property and thus seeks orders that:
 1.spent
 2. That the Honorable court be pleased to issue a temporary order of injunction restraining the defendant, his servants, agents, employees, assignees and/or anybody else acting on his behalf from selling, disposing off, subdividing, and/or in whichever way from dealing with Land Parcel Nos. AMwathi/Maua/12622, 13277, 3863, 13874, Plot No. Kirindine ‘A’/61, Nyambene/Kirindine ‘A’/2318, 1160, 1149, 1154, 1153,1157, Akachiu/Auki/820 and



Plot No. 7 Athi Market pending the hearing and determination of this application herein and the main suit.

3. That the Honourable court be pleased to issue orders of inhibition against the respondent by himself, his agent, servant, employees, transferee, purchasers or any one acting on his behest restraining them from any dealing with Parcel of Land Nos. Mwathi/Maua/12622, 13277, 3863, 13874, Plot No. Kirindine 'a'/61, Nyambene/Kirindine 'A'/2318, 1160, 1149, 1154, 1153, 1157, Akachiu/Auku/820 and Plot No. 7 Athi Market pending the hearing and determination of this application and subsequently the main suit.
4. That the orders to be served upon the Land Registrar Meru North to ensure compliance
5. That the Honourable court be pleased to issue penal notice for non-compliance of any orders to be issued herein upon service
6. That the costs of this application be provided for and the same be by the defendant.

Analysis and Determination

4. Respondent, though served did not file any response to the application. I have considered the application in the light of the supporting affidavit and annexures thereto.
5. Order 6 Rule 9 (1) of the [Civil Procedure Rules](#) which is applicable to these proceedings states that:

“Subject to sub-rule (4), any allegation of fact made by a party in his pleading shall be deemed to be admitted by the opposite party unless it is traversed by that party in his pleading or a joinder of issue under rule 10 operates as a denial of it.”
6. Applicant having not controverted the allegations of fact pleaded by the Applicant, I find that the application is unopposed. I also find that the interest of justice demand that the property in issue be preserved pending the hearing and determination of the main suit.
7. For the reasons that I have outlined hereinabove, the Notice of Motion dated 07th August, 2023 and filed on 08th August, 2023 is allowed in the following terms:
 1. A temporary order of injunction is hereby issued restraining the defendant, his servants, agents, employees, assignees and/or anybody else acting on his behalf from selling, disposing off, subdividing, and/or in whichever way from dealing with Land Parcel Nos. AMwathi/Maua/12622, 13277, 3863, 13874, Plot No. Kirindine 'A'/61, Nyambene/Kirindine 'A'/2318, 1160, 1149, 1154, 1153, 1157, Akachiu/AUKI/820 and Plot No. 7 Athi Market pending the hearing and determination of this application herein and the main suit.
 7. Orders of inhibition are hereby issued against the respondent by himself, his agent, servant, employees, transferee, purchasers or any one acting on his behest restraining them from any dealing with Parcel of Land Nos. Mwathi/Maua/12622, 13277, 3863, 13874, Plot No. Kirindine 'A'/61, Nyambene/Kirindine 'A'/2318, 1160, 1149, 1154, 1153, 1157, Akachiu/Auku/820 and Plot No. 7 Athi Market pending the hearing and determination of this application and subsequently the main suit.



8. These orders shall be served upon the Respondent and upon the Land Registrar Meru North to ensure compliance
9. Mention on 29th February, 2024 to confirm compliance and to confirm compliance with order 11 of the *Civil Procedure Rules*

DATED AT MERU THIS 30TH DAY OF NOVEMBER 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Applicant - Mr. Omari for Kaberia Arimba &Co.Advocates

For Respondent - N/A

