



Thiong'o & another v Kaminchia & 2 others (Environment & Land Case E346 of 2022) [2023] KEELC 17033 (KLR) (13 April 2023) (Ruling)

Neutral citation: [2023] KEELC 17033 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E346 OF 2022
EK WABWOTO, J
APRIL 13, 2023**

BETWEEN

GEOFFREY MUNGAI THIONG'O 1ST PLAINTIFF

ANTHONY THAIRU NGUGI 2ND PLAINTIFF

AND

ALEXANDER THURAN KAMINCHIA 1ST DEFENDANT

CHIEF REGISTRAR OF LANDS 2ND DEFENDANT

KEN KIRIKA 3RD DEFENDANT

RULING

1. The Plaintiff moved this court vide an application dated 11th November 2022, seeking for temporary injunctive orders against the defendants.
2. During the plenary hearing of the said application, the Plaintiff argued that the Defendants have trespassed into his property known as LR No 21932 which property currently belonged to the Plaintiff. Counsel also argued that the Plaintiff was in occupation of the same and they are seeking injunctive orders against the Defendants. Counsel for the 1st Defendant in her brief submissions stated that the 1st Defendant was the one currently in occupation of the suit property.
3. While the Plaintiff has sought for injunctive orders against the Defendants, it is not clear who exactly is in occupation of the suit property and both parties cannot claim to be in occupation at the same time. In the specific context of such an application before this court, one should bear in mind Paragraph 32 of *Practice Directions on Proceedings in the Environment and Land Courts and on Proceedings relating*



to the Environment and the Use and Occupation of and Title to Land and Proceedings in other Courts
(Gazette Notice No 5178 of 2014) which provides:

“During the inter-partes hearing of any interlocutory application, where appropriate parties are encouraged to agree to maintain status quo. If they cannot agree, after considering the nature of the case or hearing both sides the Judge shall exercise discretion to order for status quo pending the hearing and determination of the suit being in mind the overriding interests of justice.”

4. In the circumstances of this case, both the Plaintiff and the 1st Defendant have claimed being in occupation of the suit property even though the Plaintiff has annexed documents showing his ownership to the same. In the circumstances and regardless of who is in occupation, it is necessary to preserve the suit property by ensuring that it does not change hands and no construction is undertaken on the same pending the determination of the suit. In terms of Paragraph 32 of Practice Directions on Proceedings in the Environment and Land Court and Title to land and proceedings in other Courts (Gazette Notice No 5178 of 2014), I will make the following orders;
- a. Pending the hearing and determination of this suit a *status quo* order shall be issued meaning that there shall be no transaction whatsoever including but not limited to transferring of proprietary interest or undertaking any construction in respect to the suit property.
 - b. There shall be no eviction of either party from the suit property.
 - c. There shall be no further constructions or development by either party on the suit property and any construction currently ongoing shall cease forthwith.
 - d. Costs to abide the outcome of the main suit.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF APRIL 2023.

E.K. WABWOTO

JUDGE

In the presence of:

Mr. Odunga for Plaintiff.

Mr. Minuka for 1st and 3rd Defendants.

N/A for 2nd Defendant.

Caroline Nafuna: Court Assistant.

