



**Ethics & Anti-Corruption Commission v Njehia & another (Anti-Corruption and Economic Crimes Civil Suit E033 of 2022) [2022] KEHC 15727 (KLR) (Anti-Corruption and Economic Crimes) (24 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15727 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
ANTI-CORRUPTION AND ECONOMIC CRIMES  
ANTI-CORRUPTION AND ECONOMIC CRIMES CIVIL SUIT E033 OF 2022  
EN MAINA, J  
NOVEMBER 24, 2022**

**BETWEEN**

**ETHICS & ANTI-CORRUPTION COMMISSION ..... PLAINTIFF**

**AND**

**PETER MAINA NJEHIA ..... 1<sup>ST</sup> DEFENDANT**

**ANTHONY NJEHIA ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. Before me for ruling are two applications both brought by way of Notice of Motion. The first application which is the main application is dated 21<sup>st</sup> September, 2022. In that this court is urged to grant orders as follows:-

- “1. Spent.
2. Spent.
3. Spent.
4. Spent.
5. Spent.
6. Spent.
7. Spent.
8. Spent



9. Spent.
10. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from selling, transferring, charging or further charging, leasing, developing, subdividing, disposing, wasting, or in any other way (howsoever described) alienating the following properties:



SN0.	Description Registered	Owner	Approx. Area	Date of Reg/transfer	Approximate Value Kshs
1	Njoro/ Ngata Block 11/466 (Egerton Workers)	Peter Maina Njehia	0.0457 Ha	21/09/2020	1,600,000.00
2	Njoro/ Ngata Block 11/467(Egerton Workers	Peter Maina Njehia	0.0457 Ha	21/09/2020	1,500,000.00
3	Nakuru/ Piave 2976	Peter Maina Njehia	0.100 Ha	05/07/2011	800,000.00
4	Nakuru/ Piave 2977	Peter Maina Njehia	0.100 Ha	05/07/2011	5,800,000.00
5	Nakuru Municipality LR No.12573/58 IR No 221397/1	Peter Maina Njehia	0.082 Ha	03/12/2020	6,400,000.00
6	Njoro/ Njoro Block 9/204 Egerton	Peter Maina Njehia	0.1013 Ha	09/11/2018	1,500,000.00
7	Njoro/ Njoro Block 9/205 Egerton	Peter Maina Njehia	0.1013 Ha	09/11/2018	1,500,000.00



8	Njoro/ Njoro Block 9/303 Egerton	Peter Maina Njehia	0.1006 Ha	09/11/2018	1,500,000.00
9	Njoro/ Njoro Block 9/308 Egerton	Peter Maina Njehia	0.0973 Ha	09/11/2018	1,500,000.00
10	Dundori/ Lanet Block 11/1309 Muwa	Peter Maina Njehia	0.100 Ha	10/06/2014	2,000,000.00
11	Dundori/ Lanet Block 11/1310 Muwa	Peter Maina Njehia	0.100 Ha	10/06/2014	2,000,000.00
12	Nakuru/ Piave 4853 (Egerton Housin)	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
13	Nakuru/ Piave 4854 (Egerton Housing)	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
14	Nakuru/ Piave5108 (Egerton Housing)	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
15	Nakuru/ Piave 5109(Egerton Housing)	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
16	LR No 27317/2	Peter Maina Njehia		18/05/2016	4,500,000.00



	(Great wall Gardens Apartment Flat No A123				
17	LR No 27317/2 (Apartment Flat No 2428	Peter Maina Njehia		09/06/2017	4,000,000.00
18	LIR No 27317/2 (Great wall Gardens Apartment Phase 111. Shop No 02	Peter Maina Njehia		11/11/2017	3,500,000.00
19	Nakuru Municipality Block 22/3524	Peter Maina Njehia		4/08/09	
20	No 12715/449 Great wall Apartments Phase 11 Flat No A52	Peter Maina Njehia		12/06/2014	6,600,000.00
21	LR No 12581/14 (Great	Peter Maina Njehia		30/04/2019	3,500,000.00



	wall Gardens 11 Apartment Shop No BSII) LR No 236061/1				
22	Plot No 8 Njoro Njoro	Peter Maina Njehia		22/02/2010	
23	Njoro/ Ngata Block 1/3938	Peter Maina Njehia	0.09 Ha	15/03/2013	5,300,000.00
24	Nakuru/ Miti Mingi 231	Peter Maina Njehia	2.024 Ha	30.07.2009	6,000,000.00
25	Gilgil/ Gilgil Block 1/11243 Kikobe	Peter Maina Njehia	0.43 Ha	27/11/2012	
26	Gilgi1/ Gilgil Block 1/11244 Kikobe	Peter Maina Njehia	0.43 Ha	27/11/2012	
27	Kiambogo/ Kiambogo Block 2/18772	Peter Maina Njehia	0.455 Ha	25/02/2014	2,000,000.00
28	LR No.24840/74 IR No 84126/1	Peter Maina Njehia			2,400,000.00



	Mlolongo Mavoko Municipal Council				
29	Title No 34263 LR No 4051/12 LR No 2431/12 One 1 Plot	Peter Maina Njehia		14/08/2017	450,000.00
30	Title No 34263 LR No 4051/12 LR No 2431/12 Two 2 Plots	Peter Maina Njehia		30/03/2016	720,000.00
31	Title No 34263 LR No.4051/12 LR No.12431/12 Three 3 Plots	Peter Maina Njehia		27/10/2020	1,700,000.00
33	LR No 27317/2 (Great wall Gardens Phase	Julie Hellen Matu		30/06/2016	4,500,000.00



	1 Apartment Flat No E321				
34	LR No 27184/6 Njoro IR No 125589	Julie Hellen Matu	0.0465 Ha	09/02/2016	
35.	LR No 12581/13 (Great wall Gardens Phase 3 Apartment Flat No C 01	Antony Njehia Maina		5/03/2020	4,000,000.00

11. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from selling, transferring, disposing, wasting, or in any other way (howsoever described) alienating the following motor vehicles:



S/ NO.	Registration No.	Make	Current owner	Date of transfer registration	Estimated Value
1.	KCG 285Q	Mazda Saloon	Julie Hellen Matu	18/03/2016	2,100,000.00
2.	KCP 317Z	Toyota Hiace	Peter Maina Njehia	27/03/2018	1,800,000.00
3.	KCD 575V	Toyota M. Bus	Peter Maina Njehia	13/07/2015	2,200,000.00
4.	KCF 902M	Toyota Hiace	Peter Maina Njehia	20/11/2015	2,200,000.00
5.	KCH 549W	Toyota M. Bus	Peter Maina Njehia	03/08/2016	2,500,000.00
6.	KCM 208J	Toyota Hilux D/ Cab	Peter Maina Njehia	2 4/07/2017	2,800,000.00
7.	KCV 762F	Toyota Hiace	Peter Maina Njehia	24/06/2019	3,300,000.00
8.	KIDA	Toyota Hiace	Peter Maina Njehia	03/12/2020	1,700,000.00
9.	KCM 068S	Toyota Hiace	Peter Maina Njehia	03/12/2020	800,000.00
Total Value					19,400,000.00

12. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from withdrawing,



transferring, disposing, wasting, or in any other way (howsoever described) dealing with funds held in the following bank Accounts:

S/ NO.	Bank	A/C Name	A/C Number	Total Credits (Kshs)
1)	Equity	Peter Maina Njehia	03XXXX	32,644,448.00
2)	KCB	Peter Maina Njehia	11XXXX 04XXXX	38,559,901.00
3)	Equity	Julie Hellen Matu	03XXXX	2,297,650.85
4)	BOA	Julie Hellen Matu	08XXXX	2,394,222.84
Total Deposits				75,896,222.69

13. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from withdrawing, transferring, disposing, wasting, or in any other way (howsoever described) dealing with funds held in the following mobile money(Mpesa) Accounts:

S/No	Subscriber	Account Number	Account Name	Total Credits
1.	Safaricom Ltd	07XXXX	Peter Maina Njehia	10,114,590.00
2.	Safaricom Ltd	07XXXX	Juliet Hellen Matu	4,442,050.00
Total Credits				14,556,640.00

14. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from withdrawing, transferring, disposing, wasting, or in any other way (howsoever described)



dealing with investment portfolios in form of shares and other deposits in savings and credit cooperative societies (SACCOS) as set out in the table below;



<b>Sacco Name</b>	<b>Account Holder</b>	<b>Description Of Contribution</b>	<b>Credit Amount (Kshs)</b>
Stima Sacco limited	Peter Maina Njehia	Share Capital No 80XXXX	13,557,385.59
		Alpha Deposit (A/c. No 80XXXX)	11,613,500.00
	Julie Hellen Matu	Share Capital No 80XXXX	9,120,000.00
		Alpha Deposit 80XXXX	2,100,000.00
		Vendor Account	5,266,686.11
	Unaitas Sacco Limited	Peter Maina Njehia	Unaitas Sacco Mununga 015XXXXX- Shares A/c old system
Unaitas Sacco 10XXXX- Shares			10,000,000.00
Unaitas Sacco 015XXXX Shares A/c Old System			7,000,000.00
Julie Hellen Matu		Unaitas Sacco 10XXXX-	7,000,000.00



	Shares A/ c New System	
Less Sacco Contributions from Salaries and Benefits		(7,708,797.46)
Totals		66,148,784.24

14. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/ or any other persons from selling, transferring, granting as security, offering as collateral, disposing, wasting, or in any other way (howsoever described) dealing with the following shares in listed Public Companies:

S / No.	Share Holder's Name	Company Name	Number of Shares	Market Price Per Share Kshs	Current Market Value Kshs
2.	Njehia Peter Maina	Kengen Ltd	1,186	Kshs 4.20	4,981.20
		Safaricom Plc	4,300	Kshs 38.70	166,410.00
Total Market Value					171,391.20

15. That pending the hearing and determination of this suit this Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/ or any other persons from selling, transferring, granting as security, offering as collateral, disposing, wasting, or in any other way (howsoever described) dealing with the following shares and / or investments in a limited Company:



S/ No	Company Name	Shares Type	Original Shares	Bonus Shares	Total No of Shares	Amount paid (Kshs) Kshs
1.	FEP Holding Limited	Tier 111 shares	8,800	17,600	26,400	420,000.00
		PPO Rights issue	39,600	0	39,600	594,000.00
Totals						1,014,000.00

16. That pending the hearing and determination of this suit the Honourable Court be pleased to issue an order of injunction restraining the respondents, their agents, servants and/or any other persons from demanding the sum of Kshs 1,020,000.00 seized pursuant to a search conducted by the Commission in Miscellaneous Criminal Application No E2450 of 2021.
17. That the costs of this application be provided for.”

2. The application is premised on grounds that:-

- “ 1. The Commission pursuant to sections 55 of ACECA as read with section 11 (j) of the EACC Act is mandated to investigate a person suspected of corruption and require such a person to explain the disproportion between his/her assets and the known legitimate source(s) of income.
2. The Commission conducted investigations into allegations of unexplained wealth, unethical conduct, bribery and conflict of interest against Peter Maina Njehia, the 1<sup>st</sup> Defendant/ Respondent herein, who at the material time was a Senior Manager Supply Chain at the Kenya Electricity Transmission Company Limited (herein after 'KETRACO')
3. The Commission in the investigations sought to establish whether there were reasonable grounds to suspect that the 1<sup>st</sup> Respondent was engaged in corruption and economic crimes as alleged and further whether he had acquired and/or accumulated assets that were disproportionate to his known legitimate source(s) of income irrespective of whether the suspect assets were held by himself, associates and/ or relatives.
4. The Commission completed investigations and established that in the period between January 2010 and March 2021, (hereinafter 'the period of interest') the 1<sup>st</sup> Respondent exploited his official position of trust in the public service during his employ at KETRACO for private gain by involving himself in transactions that were in conflict with public interest.



5. During execution of search at the 1<sup>st</sup> Respondent premises in Nairobi, an amount of Kshs 1, 020, 000.00 in cash was seized from his motor vehicle. The source of the said cash could not be reasonably ascertained. He was also found in possession of tendering documents for Sieyuan Electric Company Limited which had been awarded the tender for 01karia-Lessos-Kisumu Transmission lines by KETRACO.
6. Investigations revealed that the said Sieyuan Electric Company Limited had in the period of interest deposited a total of Kshs 3,000,000.00 in two bank accounts belonging to the 1<sup>st</sup> Respondent's spouse, Julie Hellen Matu.
7. The 1<sup>st</sup> Respondent through his KCB bank account No 11017XXXXX and M-Pesa 07221XXXXX also received Kshs 400,000.00 and Kshs 85,000.00 respectively from Jooyato Surveys Limited and Jacob Oyato, a director of the said company respectively who had been awarded a contract by KETRACO to provide consulting services.
8. Investigations further established that in the Period of interest, the 1<sup>st</sup> Respondent gave false declaration of his assets during the routine Declaration of Assets, Income and Liabilities by public officers, contrary to the provisions of Section 26 of the [Public Officer Ethics Act](#), No 4 of 2003 and in addition, during the said period he had unsatisfactory tax declarations and / or payments.
9. In an effort to conceal the nature, source, disposition or movement of corruptly acquired funds investigations established that the 1<sup>st</sup> Respondent registered some of the assets acquired in the period of interest in the name of his associates namely Julie Hellen Matu (spouse) and Antony Njehia (son).
10. From the investigations the Commission established that, during the period of interest in which the 1<sup>st</sup> Respondent was reasonably suspected of corruption and economic crimes, he accumulated assets in landed properties, bank & mobile money(Mpesa) deposits, motor vehicles, shares in listed & private companies and investment portfolios and deposits in saving and credit Saccos which assets were disproportionate to his known legitimate sources of income amounting to Kshs 237,806,769.40 held in his name and those of his associates as set out below:



<b>Description</b>	<b>Amount Kshs</b>
Total approximate value of landed properties	88,910,000.00
Total approximate cost of Motor Vehicles	21,600,000.00
Total bank deposits	76,407,232.49
Total cash credited into M-pesa accounts	15,069,420.00
Total Cash Recovered During Search	1,020,000.00
Total Investment in SACCOS	73,857,581.70
Investments in FEP Holdings	1,014,000.00
Share Holding in Listed Companies	171,391.20
Total Assets	278,049,625.39
Less Income from legitimate known sources	
Total Net Salary Income from January 2010 to March 2021	(35,764,757.92)
Total Travel and Subsistence Allowances(Per diem .	(4,478,098.07)
Total Deductions	40,242,855.99
Net Value of assets disproportion	237,806,769.40

11. The Commission Pursuant to section 26 & 55 (2) of ACECA on 25<sup>th</sup> April, 2022 issued a Notice to the 1<sup>st</sup> Respondent to explain the disproportion in his assets with his known legitimate source(s) of income.
12. The Commission received responses from the 1<sup>st</sup> Respondent vide a letter dated 17<sup>th</sup> May 2022 which response was considered and after analysis a cumulative assets of value of Kshs 21,432,587.46 was found to have been satisfactorily explained leaving out an unexplained disproportion of Kshs 216,374,181.94.



13. The Commission on 14<sup>th</sup> September 2022 issued a Demand Notice to the 1<sup>st</sup> Respondent to remit the above-unexplained wealth of Kshs 216,374,181.94.
  14. The Commission pursuant to Section 55(2) of *ACECA* has instituted a suit (accompanying this Certificate & Application) seeking forfeiture of the above stated assets of Kshs 216,374,181.94 which were acquired at a time the 1<sup>st</sup> Respondent was reasonably suspected of corruption or economic crimes.
  15. That in the alternative the Commission is seeking through the suit that where the said assets have been wasted or are otherwise unavailable for forfeiture, an order for payment of the assets' equivalent value in monetary terms to the Government of Kenya.
  16. That the 1<sup>st</sup> Respondent has in the past engaged in schemes to conceal the illicit assets in family members, businesses fronts and corporate entities in an effort to distance the assets from their illegitimate source.
  17. That it is therefore just and in the public interest to prohibit the Respondents their agents, servants and/or any other persons from transferring, alienating, disposing of, dissipating or otherwise wasting the suit properties pending the hearing and determination of this application and further pending the hearing and determination of the accompanying suit (Originating Summons) for forfeiture.”
3. The application is supported by the affidavit of Shadrack Mwenda sworn on 21<sup>st</sup> September, 2022. The application was canvassed by way of written submissions.
  4. The second application is dated 24<sup>th</sup> October, 2022 and is supported by the affidavit of Pius Nyoike sworn on even date. The same seeks orders as follows:-
    - “2. That the Honourable Court be pleased to review the orders issued on 21<sup>st</sup> October, 2022 allowing in the interim prayer 2 of the Notice of Motion dated 21<sup>st</sup> September, 2022.
    3. That the Honourable Court be pleased to allow in the interim prayer 3- 9 of the Notice of Motion dated 21<sup>st</sup> September, 2022.
    4. That the costs of the application be in the course.”
  5. The gist of the application is that it could not have been the intention of this court to grant only prayer 2 of the application leaving out the other prayers; that there is an error apparent on the face of the record and this court should therefore review its order granted on 21<sup>st</sup> October 2022 to allow the other prayers. It is instructive that the said “other prayers” are the subject of the main application.

### **The Response.**

6. The Respondents opposed the main application through a relying affidavit sworn by Peter Maina Njehia, the 1<sup>st</sup> Respondent, on 19<sup>th</sup> October, 2022. On the main he deposes that his assets have been the subject of freezing orders for more than one year and granting the orders sought borders on infringement of his right to property and that he continues to suffer economically as a result of unconscionable suspicions that the Applicant has failed to prove. He has also deposed that the



application is brought in bad faith, lacks merit and is an abuse of the court process. He has annexed various documents which he has urged this court to peruse when considering the application.

7. In answer to paragraphs 11-12 of the affidavit of Shadrack Mwendwa the 1<sup>st</sup> Respondent deposes as follows: -

- “(i) I am aware of the requirement to declare wealth for public officers
- (ii) I have always declared my wealth as per the requirements of the law. (see pages 10-13 of the annexure marked PN-1 for a copy of my latest wealth declaration form.)
- (iii) Further, I am up to date with my tax compliance. To this extent I have a tax compliance certificate contrary to the allegations by the Applicant. (See page 14 of the annexure marked PN-1 for a copy of my personal information and tax return filing details.)
- (iv) The burden of establishing if any part of my wealth was obtained through corrupt means lies squarely with the Applicant. The Applicant has not called evidence linking any of my assets with any corrupt conduct.
- (v) In specific response to the funds in the KCB Bank and Equity Bank accounts, I wish to state that the Kenya Commercial Bank (KCB) is purely a salary account, while the Equity Bank Limited account had proceeds from my businesses including rent from my apartments and matatu business.
- (vi) Further, in response to the landed properties, I wish to state that part of the said investigation led the Respondent to Egerton Cosmopolitan Housing Cooperative Society Limited which wrote to the Respondent on 27<sup>th</sup> April, 2021 conveying information on how I acquired several pieces of land in Nakuru through share purchases over a period of more than 22 years.”

8. It is also his contention that the Applicant is not deserving of the orders sought in that it has not established any reasonable grounds to suspect that an offence may have been committed as that threshold can only be assessed from the cogency of evidence or information presented to the court. Secondly that injunctions and freezing orders ought not to be used to ground a person's legitimate investment or affairs but should strictly be used to target ill-gotten property and further that a party cannot be allowed to casually walk into court with scanty information or evidence and seek to attach anything and everything belonging to a suspect based on a single suspicious transaction or deal.

9. In regard to the application dated 24<sup>th</sup> October, 2022 the Respondent filed grounds of opposition dated 8<sup>th</sup> November, 2022 which state:-

- “1. That the application is incompetent, ban in law and an abuse of the Honourable court's process.
- 2. That Section 80 of the Civil Procedure and Order 45 of the Civil Procedure Rules restrict the scope and jurisdiction for review. They limit review to:-
  - a. the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or the order made or



- b. on account of some mistake or error apparent on the face of the record, or
  - c. For any other sufficient reason and whatever the ground there is a requirement that the application has to be made without unreasonable delay.
- 3) That the Applicant has not established any of the grounds for review set out in Section 80 of the Civil Procedure and Order 45 of the Civil Procedure rules.
  - 4) That whereas it is now judicially settled that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, the Application as filed raises grounds of appeal as opposed to a review.
  - 5) That while exercising the power of review, the court concerned cannot sit in appeal over its own decision.
  - 6) That it is now settled principle stemming from the provisions of Order 45 of the civil Procedure Rules that a party seeking a review of a judgment or ruling should present the review application together with the relevant formal decree or order, Failure to do so is fatal. Notably the Applicant has not annexed the order sought to be reviewed.
  7. That therefore, the aforesaid Notice of Motion lacks merit and as such an abuse of this Honourable Court’s process and should be dismissed with costs.”
10. Whereas the application dated 24<sup>th</sup> October, 2022 was argued orally before me on 9<sup>th</sup> November, 2022 the main application was canvassed by way of written submissions.
  11. I have considered the two applications, the grounds thereof as stated on their faces and supporting affidavits, the responses of the Respondent, the rival submissions, the cases cited and the law.
  12. What is sought by the Applicant is a temporary injunction to restrain the Respondents from alienating the properties that are the subject of this suit pending hearing and determination of the suit. A temporary injunction is issued for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the suit property. (See Order 40 Rule 1 of the Civil Procedure Rules.)
  13. The principles for grant of a temporary injunction are well settled and there is now a long line of cases including the case of *Giella v Cassman Brown Ltd* (1973) EA 355. The principles are that to succeed, the Applicant must demonstrate that it has a prima facie case with a likelihood of success; that unless the orders are granted it is likely to suffer irreparable harm which cannot be compensated by an award of damages. Short of that the applicant must demonstrate that the balance of convenience tilts in its favour.
  14. In the case of *Mrao v First American Bank Limited & 2 others* [2003] eKLR the court defined a prima facie case as one “in which on the material presented to the court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.” On the other hand in respect of irreparable loss it has been held as follows:-
 

“.... An injury is irreparable where there is no standard by which their amount can be measured with reasonable accuracy or the injury or harm is of such a nature that monetary



compensation, of whatever amount, will never be adequate remedy.” -See the case of [Nguruman Limited v Jan Bonde Nielsen & 2 others](#) [2014] eKLR.

15. As regards the balance of convenience it was held in the case of [Pius Kipchirchir Kogo v Frank Kimeli Tenai](#) [2018] eKLR to be:-

“The meaning of balance of convenience in favour of the Plaintiff is that if an injunction is not granted and the suit is ultimately decided in favour of the Plaintiffs the inconvenience caused to the plaintiff would be greater than that which would be caused to the defendants if an injunction is granted but the suit is ultimately dismissed. Although it is called balance of convenience it is really the balance of inconvenience and it is for the plaintiffs to show that the inconvenience caused to them would be greater than that which may be caused to the defendants. Should the inconvenience be equal, it is the plaintiffs who suffer. In other words, the plaintiffs have to show that the comparative mischief from the inconvenience which is likely to arise from withholding the injunction will be greater than which is likely to arise from granting it.

16. The Applicant’s case against the Respondents seems to me to have passed the investigations stage as a suit has already been filed. It is alleged that the properties sought to be preserved by way of a temporary injunction were acquired at a time the Respondents were reasonably suspected of corruption or economic crimes. The suit is one premised on Section 55 of the [Anti-Corruption & Economic Crimes Act](#) (ACECA) which provides for forfeiture of unexplained assets. Should the Plaintiff/Applicant adduce evidence that the suit properties are unexplained assets as required by Section 55(4)(a) of the Act the burden of proof would shift to the Respondents to explain that the properties were acquired otherwise than through corrupt conduct (See section 55(5) of the [Anti-Corruption and Economic Crimes Act](#).) It is my finding therefore that applying the principles of [Giella v Cassman Brown](#) (*supra*) and the definition of a *prima facie* case in the case of [Mrao v First American Bank Limited & 2 others](#) (*supra*) the Applicant has demonstrated that it has a *prima facie* case with a likelihood of success. I further find that whereas it may be argued that damages would be an adequate remedy, the nature of this case is one where were the suit assets to dissipate an award for damages would not be adequate compensation. The balance of convenience also tilts in favour of the applicant as the impugned assets are alleged to have been acquired from public funds and the public interest would be such that the assets are preserved pending the hearing and determination of the suit.

17. Accordingly the application dated 21<sup>st</sup> September, 2022 is allowed and orders 10, 11, 12, 13, 14, 15, 16 and 17 are granted as follows: -

1. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from selling, transferring, charging or further charging, leasing, developing, subdividing, disposing, wasting, or in any other way (howsoever described) alienating the following properties pending the hearing and determination of this suit:



S/NO.	Description	Registered Owner	Approx. Area	Date of Reg/transfer	Approximate Value Kshs
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9	Njoro/ Njoro Block 9/308 Egerton	Peter Maina Njehia	0.0973 Ha	09/11/2018	1,500,000.00



10	Dundori/ Lanet Block 11/1309 Muwa	Peter Maina Njehia	0.100 Ha	10/06/2014	2,000,000.00
11	Dundori/ Lanet Block 11/1310 Muwa	Peter Maina Njehia	0.100 Ha	10/06/2014	2,000,000.00
12	Nakuru/ Piave 4853 (Egerton Housing	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
13	Nakuru/ Piave 4854 (Egerton Housing	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
14	Nakuru/ Piave 5108 (Egerton Housing	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
15	Nakuru/ Piave 5109(Egerton Housing	Peter Maina Njehia	0.100 Ha	04/06/2019	800,000.00
16	LR No 27317/2 (Great wall Gardens Apartment Flat No A123	Peter Maina Njehia		18/05/2016	4,500,000.00
17	LR No 27317/2 (Apartment Flat No 2428	Peter Maina Njehia		09/06/2017	4,000,000.00
18	LIR No 27317/2 (Great wall Gardens Apartment	Peter Maina Njehia		11/11/2017	3,500,000.00



	Phase 11. Shop No 02				
19	Nakuru Municipality Block 22/3524	Peter Maina Njehia		4/08/09	
20	No 12715/449 Great wall Apartments Phase 11 Flat No A52	Peter Maina Njehia		12/06/2014	6,600,000.00
21	LR No 12581/14 (Great wall Gardens 11 Apartment Shop No BSII) IR No 236061/1	Peter Maina Njehia		30/04/2019	3,500,000.00
22	Plot No 8 Njoro Njoro	Peter Maina Njehia		22/02/2010	
23	Njoro/ Ngata  Block 1/3938	Peter Maina Njehia	0.09 Ha	15/03/2013	5,300,000.00
24	Nakuru/ Miti Mingi 231	Peter Maina Njehia	2.024 Ha	30.07.2009	6,000,000.00
25	Gilgil/Gilgil Block 1/11243 Kikoe	Peter Maina Njehia	0.43 Ha	27/11/2012	
26	Gilgil/ Block 1/11244 Kikoe	Peter Maina Njehia	0.43 Ha	27/11/2012	
27	Kiambogo/ Kiam bogo	Peter Maina Njehia	0.455 Ha	25/02/2014	2,000,000.00



	Block 2/18772				
28	LIR No.24840/74 IR No 84126/1 Mlologno Mavoko Municipal Council	Peter Maina Njehia			2,400,000.00
29	Title No 34263 IR No 34051/12 LR No 12431/12 One 1 Plot	Peter Maina Njehia		14/08/2017	450,000.00
30	Title No 34263 IR No 34051/12 LR No 12431/12 Two 2 Plots	Peter Maina Njehia		30/03/2016	720,000.000
31	Title No 34263 IR No 34051/12 LR No 12431/12 Three 3 Plots	Peter Maina Njehia		27/10/2020	1,700,000.00
33	LR No 27317/2 (Great wall Gardens Phase 1 Apartment Flat No E321	Julie Hellen Matu		30/06/2016	4,500,000.00
34	LR No 27184/6	Julie Hellen Matu	0.0465 Ha	09/02/2016	



	Njoro IR No 125589				
35.	LR No 12581/13 (Great wall Gardens Phase 3 Apartment Flat No C 01	Antony Njehia Maina		5/03/2020	4,000,000.00

2. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from selling, transferring, disposing, wasting, or in any other way (howsoever described) alienating the following motor vehicles pending the hearing and determination of this suit:



S/N O.	Registration No.	Make	Current owner	Date of transfer registration	Estimated Value
1.	KCG 285Q	Mazda Saloon	Julie Hellen Matu	18/03/2016	2,100,000.00
2.	KCP 317Z	Toyota Hiace	Peter Maina Njehia	27/03/2018	1,800,000.00
3.	KCD 575V	Toyota M. Bus	Peter Maina Njehia	13/07/2015	2,200,000.00
4.	KCF 902M	Toyota Hiace	Peter Maina Njehia	20/11/2015	2,200,000.00
5.	KCH 549W	Toyota M. Bus	Peter Maina Njehia	03/08/2016	2,500,000.00
6.	KCM 208J	Toyota Hilux D/ Cab	Peter Maina Njehia	24/07/2017	2,800,000.00
	KCV 762F	Toyota Hiace	Peter Maina Njehia	24/06/2019	3,300,000.00
8.	KIDA	Toyota Hiace	Peter Maina Njehia	03/12/2020	1,700,000.00
9.	KCM 068S	Toyota Hiace	Peter Maina Njehia	03/12/2020	800,000.00
Total Value					194,400,000.00

3. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from withdrawing, transferring, disposing, wasting, or in any other way (howsoever described) dealing with funds held in the following bank Accounts pending the hearing and determination of this suit:



<b>SINO.</b>	<b>Bank</b>	<b>A/C Name</b>	<b>A/C Number</b>	<b>Total Credits (Kshs)</b>
1)	Equity	Peter Maina Njehia	03XXXX	32,644,448.00
2)	KCB	Peter Maina Njehia	11XXXX/ 04XXXX	38,559,901.00
3)	Equity	Julie Hellen Matu	03XXXX	2,297,650.85
4	BOA	Julie Hellen Matu	08XXXX	2,394,222.84
Total Deposits				75,896,222.69

4. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from withdrawing, transferring, disposing, wasting, or in any other way (howsoever described) dealing with funds held in the following mobile money(Mpesa) Accounts pending the hearing and determination of this suit:

<b>S/No</b>	<b>Subscriber</b>	<b>Account Number</b>	<b>Account Name</b>	<b>Total Credits</b>
1.	Safaricom Ltd	07XXXX	Peter Maina Njehia	10,114,590.00
1.	Ltd	07XXXX	Juliet Hellen Matu	4,442,050.00
Total Credits				14,556,640.00

5. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from withdrawing, transferring, disposing, wasting, or in any other way (howsoever described) dealing with investment portfolios in form of shares and other deposits in savings and credit cooperative societies (SACCOS) as set out in the table below pending the hearing and determination of this suit;



Sacco Name	Account Holder	Description Of Contribution	Credit Amount (Kshs)
Stima Sacco limited	Peter Maina Njehia	Share Capital No 80XXXX	13,557,385.59
		Alpha Deposit (A/c. No 80XXXX)	11,613,500.00
	Julie Hellen Matu	Share Capital No.80XXXX	9,120,000.00
		Alpha Deposit 80XXXX	2,100,000.00
		Vendor Account	5,266,686.11
Unaitas Sacco Limited	Peter Maina Njehia	Unaitas Sacco Mununga 01XXXX- Shares A/c old system	8,200,000.00
		Unaitas Sacco 10XXXX- Shares	10,000,000.00
		Unaitas Sacco 01XXXX Shares A/c Old System	7,000,000.00
	Julie Hellen Matu	Unaitas Sacco 10XXXX- Shares A/c New System	7,000,000.00
Less Sacco Contributions from Salaries and Benefits			(7,708,797.46)
Totals			66,148,784.24

6. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/ or any other persons from selling, transferring, granting as security, offering as collateral, disposing, wasting, or in any other way (howsoever described) dealing with the following shares in listed Public Companies pending the hearing and determination of this suit:



S /No.	Share Holder's Name	Company Name	Number of Shares	Market Price Per Share Kshs	Current Market Value Kshs
2.	Njehia Peter Maina	Kengen Ltd	1,186	Kshs 4.20	4,981.20
		Safaricom Plc	4,300	Kshs 38.70	166,410.00
Total Market Value					171,391.20

7. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/ or any other persons from selling, transferring, granting as security, offering as collateral, disposing, wasting, or in any other way (howsoever described) dealing with the following shares and / or investments in a limited Company pending the hearing and determination of this suit:

S/No	Company Name	Shares Type	Original Shares	Bonus Shares	Total No of SharesKshs	Amount paid (Kshs)
1.	FEP Holding Limited	Tier 111 shares	8,800	17,600	26,400	420,000.00
		PPO Rights issue	39,600	0	39,600	594,000.00
Totals						1,014,000.00

8. That an order of injunction be and is hereby issued restraining the respondents, their agents, servants and/or any other persons from demanding the sum of Kshs 1,020,000.00 seized pursuant to a search conducted by the Commission in Miscellaneous Criminal Application No E2450 of 2021 pending the hearing and determination of this suit.”
18. The application dated 24<sup>th</sup> October, 2022 is subsumed in the main motion and accordingly no orders shall issue on the same.
19. The costs of this application shall be in the cause.

Orders accordingly.

**SIGNED, DATED AND DELIVERED VIRTUALLY ON THIS 24<sup>TH</sup> DAY OF NOVEMBER, 2022**

**E N MAINA**

**JUDGE**

