



REPUBLIC OF KENYA



**KENYA LAW**  
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**Somoni v Muangi & 3 others (Environment & Land Case  
E343 of 2022) [2023] KEELC 19158 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19158 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E343 OF 2022**

**LN MBUGUA, J  
JULY 27, 2023**

**BETWEEN**

**JOYCE BOSIBORI SOMONI ..... PLAINTIFF**

**AND**

**SAMMY MUSILI MUANGI ..... 1<sup>ST</sup> DEFENDANT**

**SINAI VISION INVESTMENT AGENCIES LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**WINFRED KANINI MBONDO ..... 3<sup>RD</sup> DEFENDANT**

**THE CHIEF LAND REGISTRAR ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. The plaintiff's Notice of Motion application dated May 22, 2023 is for determination. She seeks orders that pending hearing and determination of this suit, the rental income from all those parcels of land known as Land Reference Number Nairobi /Block 1/1081(Original no. 1/222/12), 1/7072 (Original number 1/222/5), Land Reference Number Nairobi Block 209/3138 and Land Reference Number 1/173, Flat No. 2 Block D be deposited by the individual tenants into a joint interest earning account in the names of the parties or that of their advocates.
2. The application is based on grounds on its face and on the plaintiff's annexed supporting affidavit sworn on May 22, 2023. She avers that she filed an application dated October 16, 2022 simultaneously with the plaint seeking to have this honourable court bar the defendants from interfering with the suit properties pending determination of the suit and on October 21, 2022, the court ordered that there shall be no alienation of the suit properties pending further directions from the court.
3. She avers that the basis of this suit is the fact that the 1<sup>st</sup> respondent herein in cahoots with the 3<sup>rd</sup> defendant has fraudulently transferred some of the suit properties to their names or to the 2<sup>nd</sup> respondent, a company associated with them by forging her signature.



4. She also states that the properties known as Land Reference Numbers LR No. 1/1081 (Original Number 1/222/14), 1/1079 (Original Number 1/222/12) and Land Reference Number 209/3138 are all registered in her name as the sole proprietor while Land Reference Numbers 1/173 Flat Number 2 Block D and Land Reference Number 1/1072 (Original Number 1/222/5) are registered in her name and that of the 1<sup>st</sup> Respondent as joint owners and they have all been let for a monthly rent of kshs.100,000/= each which is collected by the 1<sup>st</sup> defendant, but he has declined to account for the rent proceeds.
5. She further avers that there are ongoing divorce proceedings between her and the 1<sup>st</sup> defendant. She adds that the 1<sup>st</sup> defendant has also chased her from their matrimonial home on the parcel of land known as Land Reference Number 7785/996 Runda thereby forcing her and the issues of the marriage to live with relatives.
6. The plaintiff also avers that she is apprehensive that the 1<sup>st</sup> defendant is wasting away the rent proceeds from the suit properties to her detriment.
7. The application is not opposed. There is an affidavit of service sworn on July 11, 2023 by Edward Mwendwa Kathanzu which indicates that counsel for the defendants were served with the ruling notice herein.
8. The plaintiff did not file written submissions.
9. I have considered the issues raised in the application. Although the said application is unopposed, the court must consider it on its merits.
10. The plaintiff's case is that there are active divorce proceedings between her and the 1<sup>st</sup> defendant and that in the meantime, he is receiving all rental proceeds from properties she acquired solely and from others she jointly owns with him. The plaintiff exhibited copies of official search which show that as at October 7, 2022, Land Reference Number Nairobi /Block 1/1081 (Original no. 1/222/12) was registered to the 1<sup>st</sup> defendant. It is not jointly owned with the Plaintiff. However, it is one of the properties which the plaintiff claims were acquired by her but fraudulently transferred.
11. As for Land Reference Number Nairobi Block 209/3138, it is my considered view that the plaintiff has exhibited her interest in it by virtue of the sale agreement annexed to her supporting affidavit.
12. Parcel LR 1/7072 (Original number 1/222/5), and LR No. 1/173 flat No. 2 Block D, they are registered to the plaintiff and the 1<sup>st</sup> defendant jointly.
13. The plaintiff has expressed fear that the 1<sup>st</sup> defendant may misappropriate the rent proceeds from the suit property. In the circumstances it is in the interest of justice that the rent proceeds of the properties mentioned at paragraph 14 above be deposited in a joint account of the parties. This is a sound safeguard for the funds until the question of ownership is determined.
14. In the final analysis, I hereby allow the application dated May 22, 2022 with no orders as to costs. The rent is to be deposited as from the month of October 2023 to allow the harmonization of account opening.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF JULY, 2023 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:**



**Kenyatta for Plaintiff Applicant**

**Muthama for Defendant Respondent**

**Allan Kamau for 4<sup>th</sup> Respondent**

**Court Assistant: Eddel**

