



**Maisiba v Municipal Council of Ogembo & 2 others (Civil Suit E009 of 2023) [2023] KEELC 19146 (KLR) (26 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 19146 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISII  
CIVIL SUIT E009 OF 2023  
M SILA, J  
JULY 26, 2023**

**BETWEEN**

**TERESA NYANSIABOKA MAISIBA ..... PLAINTIFF**

**AND**

**MUNICIPAL COUNCIL OF OGEMBO ..... 1<sup>ST</sup> DEFENDANT**

**KISII COUNTY GOVERNMENT ..... 2<sup>ND</sup> DEFENDANT**

**JAMES ONDARI ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. The plaintiff filed suit on 21 June 2023 where she averred to be the registered proprietor of the land parcel Majoge/Boochi/3638 (the suit land). She pleaded that the property is developed and that on it is a commercial shopping complex comprising of 12 units on the ground floor with tenants and that its estimated value is Kshs 26,000,000/=. She pleaded that this development was approved on 3 September 2020. She complains that despite the above, the 1<sup>st</sup> defendant, the Municipal Council of Ogembo, has issued verbal warnings that they will demolish the building and that the 3<sup>rd</sup> defendant, who is Member of County Assembly (MCA) of the area, has also made similar threats. In the suit, the plaintiff seeks orders to permanently restrain the defendants from demolishing the building on her property.
2. Together with the plaint, the plaintiff filed an application for injunction, seeking to have the defendants restrained from entering, trespassing, or otherwise interfering with her quiet possession of the suit land pending hearing of this case. She annexed a search of the property to demonstrate that she owns it.
3. Nothing was filed to oppose the motion and I have given it due consideration.
4. The plaintiff has demonstrated that she owns the suit property. She has stated that she has developed it with a commercial building. I have not seen the building plans, but I will take it that the building is developed, there being nothing to suggest otherwise. It is not clear to me why the defendants would



wish to demolish the property and they have not filed anything to justify that action. I am persuaded that if the defendants proceed with the intended demolition, the plaintiff stands to suffer irreparable loss. In essence, from the material before me, I am persuaded to issue an order of injunction, stopping the defendants from entering the suit land to demolish the structure therein, or demolishing any structures on the suit land, pending hearing and determination of this suit. The costs of the application will be costs in the cause.

5. Orders accordingly.

**DATED AND DELIVERED AT KISII THIS 26 DAY OF JULY 2023**

**JUSTICE MUNYAO SILA**

**JUDGE, ENVIRONMENT AND LAND COURT**

**AT KISII**

