



Lusambo (Suing on Behalf and on Behalf of the Estate of Jamila Mpemba Alias Jeanette Von Rohr) v Mpemba & another (Environment & Land Miscellaneous Case 25 of 2023) [2023] KEELC 21849 (KLR) (30 November 2023) (Ruling)

Neutral citation: [2023] KEELC 21849 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND MISCELLANEOUS CASE 25 OF 2023
FM NJOROGE, J
NOVEMBER 30, 2023**

BETWEEN

KENZO HUGUES NDAYA LUSAMBO ALIAS IDDI NDAYA LUSAMBO (SUING ON BEHALF AND ON BEHALF OF THE ESTATE OF JAMILA MPEMBA ALIAS JEANETTE VON ROHR) PLAINTIFF

AND

**MPEMBA OMAR MPEMBA 1ST DEFENDANT
NASSIR OMAR MOHAMED 2ND DEFENDANT**

RULING

1. This ruling is in respect of notice of motion dated September 21, 2023 lodged by the plaintiff seeking the following orders:
 1. That this application be certified urgent and service be dispensed with in the first instance.
 2. That this honourable court be pleased to issue a temporary injunction against the 2nd defendant. That the urgency is the need to maintaining the status quo by restraining the 2nd defendant by himself, his appointed attorneys from selling and/or transferring plot No. 2553 (Original No. 1035/301) Malindi and the rental building standing thereon pending the hearing and determination of this application.
 3. That this honourable court be pleased to issue a temporary injunction against the 2nd defendant. That the urgency is the need to maintaining the status quo by restraining the 2nd defendant by himself, his appointed attorneys



from selling and/or transferring plot No. 2553 (Original No. 1035/301) Malindi and the rental building standing thereon pending the hearing and determination of this suit.

4. That the costs of this application be provided for.
2. The directions issued on 9/10/2023 by this court were inter alia that the respondents be served and an affidavit of service be filed. Written submissions were also to be filed by the parties with the applicant going first. None of these orders were complied with and this court cannot proceed to determine the present application on its merits. Consequently, the application dated 21/9/2023 is hereby dismissed for failure to comply with court orders.

DATED, SIGNED AND ISSUED AT MALINDI ON THIS 30TH DAY OF NOVEMBER 2023.

MWANGI NJOROGE

JUDGE, ELC, MALINDI.

