



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Nkoya v African Banking Corporation Limited & another (Environment & Land Case E055 of 2022) [2023] KEELC 21833 (KLR) (29 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21833 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE E055 OF 2022  
MN GICHERU, J  
NOVEMBER 29, 2023**

**BETWEEN**

**FAITH SANTO NKOYA ..... PLAINTIFF**

**AND**

**AFRICAN BANKING CORPORATION LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**MOSES OLE NKUYA ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. This ruling is on the notice of motion dated 8/7/2022. The motion which is brought under order 40 rules 1 and 2 [Civil Procedure Rules](#) among other provisions of the law seeks the following main prayer.
  4. A temporary injunction against the respondents, their representatives and or assignees restraining them from selling, auctioning, dealing with and in any way interfering with LR Kajiado/Lorngusua/2246 and 243 pending the hearing and determination of this suit.
2. The motion is supported by an affidavit sworn by the applicant, Faith Santo Nkoya, dated 5/7/2022 in which she deposes that her husband the second respondent conspired with the first respondent which is the bank to fraudulently and unlawfully charge the suit parcels without obtaining spousal consent. She is the spouse of the second respondent and she has learnt that the land is now up for sale for Kshs. 63, 070,000/- after her husband defaulted in servicing the loan that he obtained from the first respondent.
3. The motion is opposed by the first respondent and its legal manager Faith Nteere has sworn a replying affidavit dated 23/8/2022, in which she deposes, inter alia, that the applicant's husband had an application similar to this dismissed at Milimani Commercial Court in HCCC No. 36 of 2019 in a ruling dated 15/7/2019. A copy of that ruling is annexed to the affidavit by the legal manager of the first respondent.



4. I have considered the application in its entirety and I find that it has no merit at all. The Plaintiff has failed to disclose the existence of a similar suit over the same subject matter as required by order 4 rule 1 (f) of the *Civil Procedure Rules*. This application is abuse of court process. I dismiss it with costs.

**DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 29<sup>TH</sup> DAY OF NOVEMBER 2023.**

**M.N. GICHERU**

**JUDGE**

