



Cabro Mombasa Limited v Rafiki Microfinance Bank Limited (Environment & Land Case 28 of 2023) [2023] KEELC 22203 (KLR) (14 December 2023) (Ruling)

Neutral citation: [2023] KEELC 22203 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 28 OF 2023
FM NJOROGE, J
DECEMBER 14, 2023**

BETWEEN

CABRO MOMBASA LIMITED PLAINTIFF

AND

RAFIKI MICROFINANCE BANK LIMITED DEFENDANT

RULING

1. This ruling is in respect of Notice of Motion dated 29th September, 2023 by the Applicant seeking the following Orders:
 - a. That this matter be certified as urgent and service be dispensed with in the first instance.
 - b. That an injunction restraining the defendant by itself, agents, employees, successors in title and heirs from, selling, auctioning, alienating, transferring or in any way interfering with the parcels of land known as Kilifi/Mtwapa/1582 & 1583 commonly known as “The Festival Fully Furnished Apartments” pending the hearing and determination of this application.
 - c. That an injunction restraining the defendant by itself, employees, successors in title and heirs from selling, auctioning, alienating, transferring or in any way interfering with the parcels of land known as Kilifi/Mtwapa/1582 & 1583 commonly known as “the Festival Fully Furnished Apartments” pending the hearing and determination of this suit.
 - d. The costs of this application be provided for.
2. On 3/10/2023 when the application came before this court, directions were given to the parties to file submissions and to date none have been filed. Also, no affidavit of service was filed by the applicant as ordered and this court can not ascertain whether or not the present application was served upon the respondent to enable it to exercise its right to file a reply thereto. On 11/10/2023 when the matter came up for confirmation of compliance all parties and their counsel were absent.



3. No other method of disposal of the application was given by this court save by way of written submissions. The applicant having failed to file any, the application must be deemed to remain unprosecuted, and I hereby dismiss it for non-compliance with court orders. There shall be no orders as to costs. The matter shall be mentioned on 29/2/24.

DATED, SIGNED AND DELIVERED AT MALINDI ON THIS 14TH DAY OF DECEMBER 2023.

MWANGI NJOROGE

JUDGE, ELC, MALINDI.

