

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 29 OF 2016 (OS)

K S M.....PLAINTIFF

VERSUS

T G E M.....DEFENDANT

RULING

1. The Originating Summons herein dated 25th July 2016 was filed at this registry on even date by the plaintiff seeks various declarations relating to the assets set out in the pleadings to the effect that they were all acquired during matrimony with the joint efforts of the parties, or were developed and maintained with the joint efforts of the parties.

2. Contemporaneously filed with the Originating Summons is a Motion for preservation of the assets pending hearing and determination.

3. In response to the application, the defendant argues that some of the assets were acquired before matrimony and denies that the plaintiff contributed in any way to their improvement and maintenance.

4. It was directed that the Motion be disposed of by way of written submissions. There has been compliance. I have read through the written submissions and the supporting documents and noted the arguments made.

5. It is common ground that some of the assets the subject of the suit were acquired before matrimony. It is however disputed as to whether the defendant contributed in any way to their improvement and maintenance. That is a moot point to be determined at the hearing of the main suit. There is no apparent dispute over the rest of the assets.

6. It would be prudent that the said assets be preserved pending the hearing and determination of the suit, where questions as to whether the plaintiff contributed to the improvement and maintenance of the assets acquired before she married the defendant will be resolved.

7. I shall hereby orders as follows: -

(a) That I allow the Motion dated 25th July 2016 in the terms proposed; and

(b) That costs shall be in the cause.

DATED, SIGNED and DELIVERED at NAIROBI this 8TH DAY OF DECEMBER, 2017.

W. MUSYOKA

JUDGE