



**Mwasi v Chai (Environment & Land Case E070 of 2021)
[2025] KEELC 3486 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3486 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE E070 OF 2021
FM NJOROGE, J
APRIL 29, 2025**

BETWEEN

LUCIA MKANJALA MWASI PLAINTIFF

AND

ABDUL AHMED CHAI RESPONDENT

RULING

1. Vide an application dated 9/8/2021 the plaintiff is seeking the following orders:
 1.Spent;
 2. That the honourable court do urgently allow the amendment and/or correction of prayer (c) of the plaint dated 9th august 2021 which is a result of typing error that could bring out contradiction as regards judgment of the court dated 17th December 2024;
 3. That prayer no c in the plaint dated 9th august 2021 be amended or corrected as follows: “an order of permanent injunction restraining the defendant from interfering with the plaintiff’s possession /occupation of the subject property” in place of an order of permanent injunction restraining the plaintiff from interfering with the defendant’s possession/occupation of the suit property;
 4. That the costs of the application be provided for.
2. The application is supported by the affidavit of Samuel Oyugi Ondieki, advocate for the plaintiff who depones that the expression sought to be amended was a typing error that could bring a contradiction within the judgment of the court issued in the matter.
3. The replying affidavit in opposition to the motion was filed by Onesmus Safari Mangaro, counsel for the plaintiff who was also the deponent thereof. He narrated the history of the suit which I need not set out herein. He concluded that the court had taken consideration of the pleadings and there was no



typing error. He asserts that the order No (c) as sought by the plaintiff was correct, and it was properly granted.

4. I have considered the application and the response. All through the plaint the plaintiff laid accusation after accusation upon the defendant and it is hardly plausible that in the context of those accusations, as well as the other orders, which seek that the suit land be declared hers and that the defendant's title be cancelled, she could have been seeking orders in favour of the defendant. It is therefore correct that the said prayer if not amended would have an absurd result whereby by prayer (a) the court has ordered that the land belongs to the plaintiff, by prayer (b) the court has ordered the defendant's title be cancelled and by prayer (c) it retrained the plaintiff from possession or occupation of the suit land it had awarded her.
5. In the circumstances, this court finds that the framing of prayer no (c) in the plaint to favour the defendant was erroneous and that the application filed by the plaintiff and dated 17/1/2025 has merit. I therefore grant it in terms of prayers Nos 2, and 3. Consequently the judgment of this court shall be construed with the amendment as granted in this ruling and the decree shall be also issued in line with the amendment granted. As the error is purely attributable to the plaintiff, the costs of the application shall be borne by the plaintiff.

RULING DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 29TH DAY OF APRIL, 2025.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

