



Huts of Gold Limited v Waithaka & 2 others (Environment & Land Case E009 of 2022) [2022] KEELC 4835 (KLR) (22 September 2022) (Ruling)

Neutral citation: [2022] KEELC 4835 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MURANGA
ENVIRONMENT & LAND CASE E009 OF 2022
LN GACHERU, J
SEPTEMBER 22, 2022**

BETWEEN

HUTS OF GOLD LIMITED APPLICANT

AND

SUSAN WAITHAKA 1ST RESPONDENT

HON.NJOROGE MARY WAMAUA WAITHIRA 2ND RESPONDENT

SUSAN WANJIRU 3RD RESPONDENT

RULING

1. By a Notice of Motion Application dated March 28, 2022, the Plaintiff/Applicant sought for Orders that;
 - a. Spent
 - b. That this Honourable Court be pleased to grant and Order of temporary Injunction restraining the Defendants /Respondents whether by themselves, their agents, servants, employees or anybody acting on their behalf from remaining on, cultivating, interfering with or doing any other act which is prejudicial to the Plaintiff's quiet enjoyment and occupation of land title numbers Mitubiri/Wempa/Block1/13337, and Mitubiri/Wempa/ Block 1/13338, pending hearing and determination of the Application inter parties.
 - c. That this Honourable Court be pleased to grant and Order of temporary Injunction restraining the Defendants/ Respondents whether by themselves, their agents, servants, employees or anybody acting on their behalf from remaining on, cultivating, interfering with or doing any other act which is prejudicial to the Plaintiff's quiet enjoyment and occupation of title numbers Mitubiri/Wempa/Block1/13337, and Mitubiri/Wempa/Block 1/13338, pending hearing and determination of the Application.



- d. That this Honourable Court be pleased to grant an Order of temporary Injunction restraining the Defendants/ Respondents whether by themselves, their agents, servants, employees or anybody acting on their behalf from remaining on, cultivating, interfering with or doing any other act which is prejudicial to the Plaintiff's quiet enjoyment and occupation of title numbers Mitubiri/Wempa/Block 1/13337, and Mitubiri/Wempa/Block 1/13338, pending hearing and determination of this suit.
 - e. That the Orders herein be executed by the Plaintiff's preferred auctioneer /Court broker / or the OCS, Kenol Police Station.
 - f. That the costs of this application be borne by the Defendants/Respondents.
2. The application is premised on the grounds stipulated on the face of it and on the Supporting Affidavit of Peter Mwangi Maina, sworn on March 28, 2022.
 3. It is the Applicant's contention that the Plaintiff was the registered owner of Mitubiri/Wempa/Block 1/12345, measuring approximately 80 acres having purchased it from Kandere Muhethu Company Limited, in the year 2000. That the Plaintiff after purchase applied for change of user from agricultural land to residential and erected a perimeter fence. That the Plaintiff further subdivided the land into smaller portions among them being Mitubiri/Wempa/Block 1/13337, and Mitubiri/Wempa/Block 1/13338, measuring 1.322 ha and 1.323 ha respectively. That one side of Mitubiri/Wempa/Block 1/13338, and Mitubiri/Wempa/Block 1/13337, borders the riparian reserve for Hippo Public Dam, occupied and cultivated by a group of people from Gikono area.
 4. It is the Plaintiff/Applicant's further contestation that that the people from Gikono area have without his consent encroached upon Mitubiri/Wempa/Block 1/13338, and Mitubiri/Wempa/Block 1/13337, and destroyed his perimeter fence causing him a loss of about Kshs 500,000/=. That in a bid to resolve the dispute, the Plaintiff/Applicant approached the County Surveyor, Murang'a who issued a report that showed that indeed the impugned land belonged to the Plaintiff/Applicant. That upon confirmation of the boundaries by the Murang'a County Surveyor, the said group of residents who were found to have encroached on the Plaintiff/Applicant's land volunteered to vacate the Plaintiff/Applicant's land more specifically being Mitubiri/Wempa/Block1/13338 and Mitubiri / Wempa/Block 1/13337.
 5. However, the Defendants/Respondents have refused and/or failed to vacate the Applicant's land and continue to illegally occupy the same. That the 2nd Respondent, a politician, has even organized goons wielding crude weapons to enforce the said illegal occupation.
 6. Further that the he reported the said illegality to the authorities and to the Police Station at Gikono, and the Police have not been successful in preventing illegal trespass, especially because the 2nd Defendant/ Respondent, who is a politician has resorted to mass action and force.
 7. The Application is opposed by the Respondents' via Grounds of Opposition dated April 22, 2022. The Respondents' opposed the application on grounds that;
 1. That the matter is *res subjudice* as there exists Murang'a ELC Petition No E002 of 2022:- Hon Mary Wamau, Nagami Self Help group & Susan Wanjiku Waithaka vs Hon Attorney General, National Environment Management Authority, Water Resources Authority, National Water Harvesting and Storage Authority & Inspector General of the National Police Service.
 2. The Ministry of Environment, National Environment Management Authority, Water Resources Authority, and National Water Harvesting and Storage Authority have not clarified



and/or no proper demarcation between Mitubiri/Wempa/Block 1/13338 and Mitubiri/Wempa/Block 1/13337 and Nagami Dam Reservoir and Split way.

3. The Applicant is not deserving of the orders sought as they are guilty of material non-disclosure and they have not joined to the suit National Environment Management Authority, Water Resources Authority, and National Water Harvesting and Storage Authority who have clear identifiable stake in these proceedings.
4. The Plaintiff has approached this Honorable Court with unclean hands as it has already taken the law into their own hands by evicting and destroying crops belonging to the Nagami Dam Self-help, Residents of Kihiu Mwiri Scheme Group and farmers, to whom the 2nd Respondent represents without due process of law.
5. No authorization as recognized agent under seal has been furnished to the Court for the deponent of the Plaintiff's supporting Affidavit and verifying affidavit, hence the Application and Plaint is defective as it negates Order 4, Rule 1(4) and Order 9 Rule 2(c) of the Civil Procedure Rules, 2010.
6. The Resultant effect is that the Notice of Motion application dated March 28, 2022 is defective as there is no Plaint properly filed as contemplated by Order 4, Rule 1 of the Civil Procedure Rules, 2010.
7. The Plaintiff's Application does not meet the test for the grant of the injunctive/temporary/interim Orders Sought.
8. In response to the Respondents' Grounds of Opposition, the Applicant filed a Supplementary Affidavit sworn on May 25, 2022, by Peter Mwangi Maina, a Director of the Plaintiff/Applicant. The Applicant reiterated its averments in the Notice of Motion Application and in the Supporting Affidavit. The Applicant further contends that part of Nagami Dam is a private dam as it is constructed within private land. That Nagami Dam which was referred to as Hippo Dam in the Supporting Affidavit is not a public dam, but a private dam.
9. The instant application was dispensed with by way of written submissions. The Plaintiff/Applicant, filed its written submissions dated May 25, 2022, through the Law Firm of Patrick's Law & Asso. The Applicant relied on the case of *Giella vs Cassman Brown 1973 EA*, which enunciates the principles for grant of an interlocutory injunction. The said principles are;- the Applicant must show a *prima facie* case;- that he will suffer irreparable loss and if in doubt the Court to decide on balance of convenience.
10. It was the Plaintiff/Applicant's submissions that it had made a case for grant of a temporary injunction and that the instant application should be allowed entirely with costs.
11. The Respondents on the other hand filed their written submissions dated May 30, 2022, through the Law Firm of Keaton & Keaton Advocates. They submitted that the Plaintiff/Applicant has failed on a balance of probability to establish the principles necessary for grant of injunctive orders as enunciated in the Giella Case (*supra*).
12. The Court has now carefully read and considered the instant Notice of Motion, the rival written submissions, and the Pleadings in general and finds that the issues for determination are;
 1. Whether the Instant suit is *res judicata*
 2. Whether the Plaintiff has duly appointed an agent under seal in the instant suit.
 3. Whether the Applicant has met the principles to warrant grant of an interim injunction



1. Whether the suit herein is *res judicata*

The principle of *res judicata* is embedded under Section 7 of the [Civil Procedure Act](#). The same provides as follows:

“No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.”

13. In the case of [John Florence Maritime Services Limited & Another v Cabinet Secretary for Transport and Infrastructure & 3 Others](#) [2015] eKLR, the Court of Appeal set out the ingredients of *res judicata* as follows:

“From the above, the ingredients of *res judicata* are firstly, that the issue in dispute in the former suit between the parties must be directly or substantially be in dispute between the parties in the suit where the doctrine is pleaded as a bar. Secondly, that the former suit should be the same parties, or parties under whom they or any of them claim, litigating under the same title and lastly that the Court or tribunal before which the former suit was litigated was competent and determined the suit finally (see [Karia & Another v the Attorney General and Others](#) [2005] 1 EA 83.”

14. Based on the foregoing, *res judicata* is intended to bring litigation to a halt; it is intended to bar a person who has had his day in a Court of competent jurisdiction, where his case was concluded from re-litigating his case afresh. In essence it saves judicial precious time and protects the sanctity of the Court to do just what it should do. In sum, it prevents the abuse of the Court process.
15. Having stated the above, this Court will now investigate whether the Defendants/Respondents in the instant suit have established a case for the application of the doctrine of *res judicata*. The Court notes that while the Defendants/Respondents in their Grounds of Opposition alluded to the instant suit being *res judicata*, they did not place any evidence before the Court to enable the Court to investigate and satisfy itself of the same.
16. It is trite that he who alleges must prove, and it is not enough to just mention the principle of *Res Judicata* in passing, and not place any evidence before the Court to enable the Court to investigate and compare the pleadings in question to the pleadings in the instant suit.
17. The upshot of the foregoing is that the Defendants/Respondents have failed to establish and substantiate the principle of *Res judicata* and hold it as applicable herein. On that ground alone, the ground of opposition fails entirely.

2. Whether the Plaintiff/Applicant has duly appointed an agent under seal in the instant suit.

18. Order 4 rule 1(4) of the Civil Procedure Rules provide as follows: -

“1(4) Where the plaintiff is a Corporation, the verifying affidavit shall be sworn by an officer of the company duly authorized under the seal of the company to do so.”

19. It has not been disputed that at the time of filing the suit in this Court, a resolution to institute suit was not filed. The question that follows is whether that failure is fatal to the Applicant's suit?



20. In the case of *Assia Pharmaceuticals v Nairobi Veterinary Centre Ltd Nairobi* (Milimani) HCCC No 391 of 2000, the Court held as follows:

“It is settled law that where a suit is to be instituted for and on behalf of a company, there should be a company resolution to that effect.....As regards litigation by an incorporated company, the directors are as a rule, the persons who have the authority to act for the company; but in the absence of any contract to the contrary in the articles of association, the majority of the members of the company are entitled to decide even to the extent of overruling the directors, whether an action in the name of the company should be commenced or allowed to proceed. The secretary of the company cannot institute proceedings in the name of the company in the absence of express authority to do so; but proceedings started without proper authority may subsequently be ratified.”

21. There is no doubt that a resolution is required as shown above, and the said resolution is intended to address situations where some persons drag the company to Court and bind the company on issues litigated, yet members of the company have not sanctioned their action. The requirement is therefore intended to protect the companies from unauthorized Court processes.
22. From the above, it is evident that the omission can be ratified after the suit has been filed. The authorization is to assure Court that the company is properly in Court and it is not an action of unauthorized members/individuals.
23. In the case of *Leo Investments Ltd v Trident Insurance Company Ltd* [2014] eKLR, Odunga J found that the mere failure to file the resolution of the Corporation together with the Plaintiff did not invalidate the suit.
24. Further in the case of *Republic v Registrar General and 13 Others* Misc Application No 67 of 2005 [2005] eKLR, the Court held as follows:

“...such a resolution by the Board of Directors of a company may be filed at any time before the suit is fixed for hearing as there is no requirement that the same be filed at the same time as the suit. Its absence is, therefore, not fatal to the suit.”

25. Additionally, in the case of *Spire Bank Limited v Land Registrar & 2 others* [2019] eKLR, the Court of Appeal stated as follows: -

“...It is essential to appreciate that the intention behind order 4 rule 1 (4), was to safeguard the corporate entity by ensuring that only an authorized officer could institute proceedings on its behalf. This was to address the mischief of unauthorized persons instituting proceedings on behalf of corporations, and obtaining fraudulent or unwarranted orders from the Court. The company’s seal that is affixed under the hand of the directors ensured that they were aware of, and had authorized such proceedings together with the persons enlisted to conduct them. And where evidence was produced to demonstrate that a person was unauthorized, the burden shifted to such officer to demonstrate that they were authorized under the company seal. With this in mind, we dare say that the provision was not intended to be utilized as a procedural technicality to strike out suits, particularly where no evidence was produced to demonstrate that the officer was unauthorized.”

26. In view of the above, it is clear that it is sufficient for the authorized person to depose that he or she was duly authorized. In the instant case, the Court notes that the Supporting Affidavit and Verifying



Affidavit was sworn by one Peter Mwangi Maina a Director of the Plaintiff who depones that he has authority to swear the same on behalf of the Plaintiff. This Court notes that the Defendants/ Respondents have not challenged the said authority or produced any evidence to the contrary.

27. Based on the above and guided by the above decisions, this Court finds and holds that contrary to the Respondents view and submissions, the instant application and suit is properly before the Court and the authorization contained in the affidavits is sufficient, unless any evidence to the contrary is produced.

3. Whether the Plaintiff/Applicant has met the threshold to warrant grant of an interim injunction

28. The law on granting of interlocutory injunction is set out under Order 40(1) (a) and (b) of the Civil Procedure Rules, 2010, which provides: -

“Where in any suit it is proved by affidavit or otherwise—

- a. That any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree; or [Rev 2012] Civil Procedure cap 21 [Subsidiary] C17 – 165;
- b. That the defendant threatens or intends to remove or dispose of his property in circumstances affording reasonable probability that the plaintiff will or may be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal, or disposition of the property as the Court thinks fit until the disposal of the suit or until further.”

29. The conditions for consideration further in granting an injunction are now well settled in the case of *Giella v Cassman Brown & Company Limited [1973] EA 358*, where the Court expressed itself on the conditions that a party must satisfy for the Court to grant an interlocutory injunction:-

“First, an Applicant must show a *prima facie* case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the Applicant might otherwise suffer irreparable injury, which would not adequately be compensated by an award of damages. Thirdly, if the Court is in doubt, it will decide an application on the balance of convenience.”

30. The test for granting of an interlocutory injunction was considered in the *American Cyanamid Co v Ethicom Limited [1975] A AER 504*, where three elements were noted to be of great importance namely:

1. There must be a serious/fair issue to be tried,
2. Damages are not an adequate remedy,
3. The balance of convenience lies in favour of granting or refusing the application.

31. The circumstances for consideration before granting a temporary injunction under order 40 Rule 1 of the Civil Procedure Rules, require a proof that any property in dispute in a suit is in a danger of being wasted, damaged or alienated by any party to the suit or wrongfully sold, in execution of a decree



or that the Defendant threatens or intends to remove or dispose the property. The Court is in such situation enjoined to grant a temporary injunction to restrain such acts.

32. Therefore, in granting Orders for an interlocutory injunction, the Court has to satisfy itself that the Applicant has a *prima facie* case with a probability of success, and that if the Applicant is not granted the orders sought, it will suffer irreparable damage which cannot be compensated by way of damages.
33. A *prima facie* case was defined in *Mrao Ltd v First American Bank of Kenya and 2 others*, [2003] KLR 125, which was cited with approval in *Moses C Muhia Njoroge & 2 others vs Jane W Lesaloi and 5 others*, [2014] eKLR, where the Court of Appeal defined a *prima facie* case as:

“A *Prima facie* case in a civil application includes but not confined to a genuine and arguable case. It is a case which on the material presented to the Court, a tribunal properly directing itself will conclude there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the later”

34. In the instant case, the Plaintiff/Applicant contends that it is the lawful and registered owner of Mitubiri/Wempa/Block 1/12345 measuring approximately 80 acres, having purchased it from Kandere Muhethu Company Limited in the year 2000. That after the said purchase, it subdivided the said land into smaller portions among them being Mitubiri/Wempa/Block 1/13337, and Mitubiri/Wempa/Block 1/13338, measuring 1.322 ha and 1.323 ha respectively. In support of this allegations, the Applicant produced copies of title deeds and official searches for land parcels No. Mitubiri/Wempa/Block 1/13337, and Mitubiri/Wempa/Block 1/13338. It is trite that a certificate of title is conclusive evidence of ownership, unless the contrary is proven through calling of evidence. The rights of a registered owner of property are clearly set out under sections 24, 25 and 26 of the *Land Registration Act*, 2012. Section 24(a) provides:

“24. Subject to this Act

- (a) The registration of a person as proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto.”

35. Section 25(1) provides that such a registered owner’s rights are indefeasible and are held free from all other interests and claims and that the rights can only be defeated in the manner provided under the Act. Therefore, from the above documents, unless contrary evidence is produced, the Court finds and holds that prima-faciely, the Plaintiff/Applicant is the registered owner and has beneficial interest over parcels No. Mitubiri/Wempa/Block 1/13337 and Mitubiri/Wempa/Block 1/13338, and unless contrary evidence is availed, there are entitled to protection.
36. It is the Plaintiff/Applicant’s further contention that the Defendant/Respondents have encroached on their property without their consent. That despite various efforts to have the dispute between the Applicant and the Respondents amicably resolved, the Respondents have refused and/or neglected to leave the Plaintiff’s/Applicant’s land and continue to be in illegal occupation of the same. In support of the said allegation of encroachment and trespass by the Respondents, the Applicant produced a surveyor’s report which this Court has perused.
37. The Respondents on the other hand have alleged that the Ministry of Environment, National Environment Management Authority, Water Resources Authority, and National Water Harvesting and Storage Authority have not clarified the proper demarcation between Mitubiri/Wempa/Block 1/13338 and Mitubiri/Wempa/Block 1/13337 and Nagami Dam Reservior and Split way. That the Plaintiff/Applicant is not deserving of the orders sought as they are guilty of material non- disclosure



and that the Plaintiff/Applicant has approached this Honorable Court with unclean hands as it has already taken the law into their own hands by evicting and destroying crops belonging to the Nagami Dam Self-help, residents of Kihiu Mwiri Scheme Group and farmers.

38. On whether the Applicant is guilty of material disclosure, and whether the demarcation is proper, that is a matter of evidence, and this Court cannot conclusively determine these issues at this stage of the proceedings. The said determination will have to await the calling of evidence, testing of the same in cross examination and evaluation of the tendered evidence. At this stage, the Court is only mandated to arrive at a finding of whether the Plaintiff/Applicant has met the threshold for grant of injunctive orders as was set out in the case of *Giella v Cassman Brown & Co Ltd* 1973 (*supra*)

39. Further in the case of *Edwin Kamau Muriu v Barclays Bank of Kenya Ltd* Nairobi HCCC No 1118 of 2002, the Court held that:-

“In an Interlocutory application, the Court is not required to determine the very issues which will be canvassed at the trial with finality. All the Court is entitled at that stage is to determine whether the Applicant is entitled to an Injunction sought on the usual criteria”

40. Based on the above, the question that begs an answer is whether the Plaintiff/Applicant has satisfied the criteria established for grant of a temporary injunction. To answer this question, the Court has analyzed the evidence available and finds that the Plaintiff/Applicant is the registered proprietor of the suit properties as is evident from the certificates of title, attached as annexures to the pleadings. As a proprietor of the suit property, the Plaintiff/Applicant enjoys the rights of a proprietor as provided by Sections 24 and 25 of the *Land Registration Act*. Further, the said certificate of title can only be challenged under Section 26(1) (a) & (b) of the said Act.

41. For now there is no such challenge so far. Though, the Court will require evidence to confirm whether indeed the Respondents have encroached on the Plaintiff's/Applicant's property, this Court finds and holds that the Plaintiff has established that it has a *prima facie* case with probability of success at the trial.

42. Having found that the Applicant/Plaintiff has established that it has a *prima-facie* case with probability of success, the Court will now proceed to investigate if the other elements for grant of temporary injunction have been met. In the case of *Kenya Commercial Finance Company Limited v Afraba Education Society & Others*, Civil Appeal No 142 of 1999 [2001] IEA86 where the Court held that:-

“The judge should address himself sequentially on the conditions for granting of an application for injunction instead of proceeding straightaway to address himself on the third condition because where the Applicant has no registered interest in the land comprised in the title's dispute and therefore has not demonstrated that it has a *prima facie case* with probability of success, no interlocutory injunction would be available”

43. The second limb for determination in the grant of a temporary injunction is whether the Applicant has established that it will suffer irreparable loss which cannot be adequately compensated by an award of damages. In the case of *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR the Court of Appeal held that:

“If the Applicant establishes a *prima facie* case that alone is not sufficient to grant an interlocutory injunction, the Court must further be satisfied that the injury the Applicant will suffer, in the event the injunction is not granted, will be irreparable. In other words, if damages recoverable in law is an adequate remedy and the Respondent is capable of



paying, no interlocutory order of injunction should normally be granted, however strong the Applicant's claim may appear at that stage. The existence of a prima facie case does not permit "leap-frogging" by the Applicant to injunction directly without crossing the other hurdles in between."

44. The said Court went on to state that:

"On the second factor, that the Applicant must establish that he "might otherwise" suffer irreparable injury which cannot be remedied by damages in the absence of an injunction, is a threshold requirement and the burden is on the Applicant to demonstrate, prim facie, the nature and extent of the injury. Speculative injury will not do; there must be more than an unfounded fear or apprehension on the part of the Applicant. The equitable remedy of temporary injunction is issued solely to prevent grave and irreparable injury; that is injury that is actual, substantial and demonstrable; injury that cannot "adequately" be compensated by an award of damages. An injury is irreparable where there is no standard by which their amount can be measured with reasonable accuracy or the injury or harm is such a nature that monetary compensation, of whatever amount, will never be adequate remedy."

45. In the instant Application, the Plaintiff/Applicant alleges as a result of the trespass occasioned by the Respondents it will suffer irreparable damage being the registered owner of the suit land. These allegations by the Plaintiff/Applicant though not rebutted through evidence by the Respondents, the Applicant itself did not establish what damages it will suffer.

46. Guided by the definition of irreparable damage in the *Nguruman Limited* case above cited, the Court finds that the Plaintiff/Applicant herein has failed to establish the element of irreparable damage necessary for granting of a temporary injunction. The Plaintiff/Applicant in its supporting Affidavit only on mentioned encroachment and trespass committed by the Defendants/Respondents, but has failed to state and prove the damage and/or loss it continues to suffer as a result of the said trespass and/or encroachment. Further this Court notes that to establish the said trespass and/or encroachment is a matter of evidence, which this Court cannot conclusively deal with at this stage.

47. Further, it is evident that the Plaintiff/Applicant is not in possession of the entire suit property and there would be certainly no injury or damages that would be occasioned if the injunctive orders are not granted. Therefore, the Court finds and holds that damages herein would be adequate compensation in the event that the Plaintiff/Applicant turns out to be the successful litigant after the main trial. See the case of *Wairimu Mureithi v City Council of Nairobi*, Civil Appeal No.5 of 1979[1981] KLR 322, where the Court held that:-

"However strong the Plaintiff's case appears to be at the stage of interlocutory application for injunction, no injunction should normally be granted if damages in the measure recoverable at common law would be adequate remedy and the Defendant would be in a financial position to pay them".

48. On the balance of convenience, the Court is not in doubt that the Plaintiff/Applicant has failed to make a case for irreparable loss and in any case, the Plaintiff/Applicant can be adequately compensated by way of damages if trespass and/or encroachment is proved in the substantive hearing of this suit.

49. For the above reasons, the Court finds and holds that the Plaintiff/Applicant herein has not established the threshold for grant of both temporary injunctive orders as sought in the Notice of Motion application dated March 28, 2022.



50. Consequently, the Court finds and holds that the said Notice of Motion Application dated March 28, 2022, is not merited and proceeds to dismiss the said Application entirely. Costs shall be in the cause.

It is so ordered.

DATED,SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 22ND DAY OF SEPTEMBER, 2022.

L GACHERU

JUDGE

Delivered virtually in the presence of; -

Joel Njonjo - Court Assistant

Mr Moses Masai H/B Mwangi for the Plaintiff/ Applicant

Mr Yegon & Kiprono for the 1st 3rd Defendants/Respondents

L GACHERU

JUDGE

22/9/2022

