



**Thikora v Mundia (Environment and Land Appeal E068 of 2022)  
[2022] KEELC 14464 (KLR) (27 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 14464 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND APPEAL E068 OF 2022  
LN MBUGUA, J  
OCTOBER 27, 2022**

**BETWEEN**

**STANELY THIKORA ..... APPLICANT**

**AND**

**NICHOLAS MUNDIA ..... RESPONDENT**

**RULING**

1. Before me is an application dated August 16, 2022 where the applicant/appellant seeks the following orders:
  - a. That pending hearing and determination of this application and subsequent appeal, the respondent be and is hereby ordered to restore power supply to the applicant's business premises forthwith.
  - b. That pending hearing and determination of this application and subsequent appeal, the applicant/appellant is hereby ordered to continue paying rent through the respondent's bank at Kshs 25,000/- per month as agreed by the landlord and Tenant.
  - c. That pending the hearing and determination of this application and subsequent appeal, the respondent by themselves, their officers, servants, agents or otherwise howsoever be restrained from harassing, intimidating, threatening, the applicant, his agents and servants and interfering with the applicant's business premises.
2. The applicant contends that he was aggrieved with the ruling of the tribunal dated July 25, 2022. The applicant runs a bar business which has come to a stand still as he cannot operate without electricity. He is also apprehensive that the respondent will illegally evict him.



3. The respondent has opposed the application via his Replying Affidavit dated September 20, 2022 where he contends that the applicant has his own meter and uses tokens for power supply, thus there is no logic as to how the respondent could have disconnected the electricity.
4. The respondent further avers that the tenant is in breach of the tenancy agreement of July 5, 2021 by failing to pay rent as agreed.
5. In a further affidavit dated September 23, 2022, the applicant does admit that his power meter uses tokens, but the respondent or his agents have tampered with the meter in away that whenever he inputs tokens, the same are rejected.
6. I have keenly perused the material presented before me. It appears that on June 25, 2021, the applicant obtained orders in his favour where the landlord/ respondent was restrained from interfering with the applicant's occupation of the suit property. However, those orders were apparently discharged on September 6, 2021 on account of none appearance by the applicant. The applicant then filed an application dated October 4, 2021 seeking orders to restrain the landlord from terminating the tenancy relationship. A ruling thereof was delivered on February 25, 2022 dismissing the aforementioned application. The applicant filed another application dated 3.3.2022 seeking a review of the orders of February 25, 2022. In a ruling dated July 25, 2022 that application too was dismissed.
7. I have gathered much of this history from the ruling of July 25, 2022 which has been availed in the CTS. The tribunal was quite clear that the dismissal of the application of October 4, 2021 was on account of the applicant's failure to pay outstanding rent. It follows that the argument being advanced by the applicant that some of his documents (a further affidavit and submissions) were not considered is hollow. The tribunal while considering the review application at paragraph 11 of the ruling of July 25, 2022 stated that the applicant did not allude to what would have changed the decision of the tribunal had the said documents been availed.
8. On the issue of disconnection of electricity, I find that the applicant has admitted that his meter is a token one. He has not demonstrated how the respondent has interfered with the said meter.
9. As rightly submitted by the respondent, the court cannot re-write a contract of the parties, see *Pius Kimaiyo Langat vs. Co-operative Bank of Kenya Limited* [2017] EKLR.
10. I find that the application dated August 16, 2022 is not merited.

The same is hereby dismissed with costs to the respondent.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF OCTOBER, 2022 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

M/s Kirimi holding brief for M/s Wamukore for applicant

Githaiga for respondent

Court assistant: Eddel

