



Brownfield Developers Limited v Nyara Youth Group (Sued through Its Management Official, Clearance, Secretary, Treasurer) (Environment & Land Case 6 of 2022) [2022] KEELC 15403 (KLR) (19 December 2022) (Ruling)

Neutral citation: [2022] KEELC 15403 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 6 OF 2022
PM NJOROGE, J
DECEMBER 19, 2022**

BETWEEN

BROWNFIELD DEVELOPERS LIMITED PLAINTIFF

AND

**NYARA YOUTH GROUP (SUED THROUGH ITS MANAGEMENT OFFICIAL,
CLEARANCE, SECRETARY, TREASURER) DEFENDANT**

RULING

1. This application is dated 3rd of August, 2022 and seeks orders that;
 1. This application be certified urgent and the same be heard ex parte in the first instance and thereafter be listed for hearing inter partes.
 2. Pending inter partes hearing and the hearing and determination of this application, an interim order of injunction be and is hereby issued against the defendants restraining the said Defendants, its agents, assigns, successors and/or any person howsoever acting on their behalf or under their instructions from dealing with or interfering with the Plaintiff's claim over the suit property from trespassing, re-alienating, transferring, charging, developing or in any manner dealing with Land Title Number ISIOLO TOWNSHIP BLOCK 5/13.
 3. Pending the hearing and determination of this suit, an interim order of injunction be and is hereby issued against the defendants restraining the said Defendants, its agents, assigns, successors and/or any person howsoever acting on their behalf or under their instructions from dealing with or interfering with Plaintiff's claim over the suit property and further from trespassing, re-alienating, transferring, charging, developing or in any manner dealing with Land Title Number ISIOLO TOWNSHIP BLOCK 5/13.



4. A mandatory injunction order do issue against the Defendants directing him, (sic) his agents and/or servants to immediately stop and/or cease encroaching and/or trespassing, interfering, wasting, constructing further/or further dealing in whatsoever manner with the Plaintiff/Applicant's Land Title Number ISIOLO TOWNSHIP BLOCK 5/13 and to remove any and all structures erected on the said land within such period as the Honourable Court may deem reasonable.
5. In default of such compliance, the plaintiff/applicant be at liberty to use reasonable force to remove and/or demolish such structures at the Defendant/Respondent's expense, including full police assistance.
6. Costs of this application be provided for.
2. The application is supported by the affidavit of Vivek Shah for the applicant.
3. The application was canvassed by way of written submissions.
4. I do note that the defendant/respondent has filed a statement of defence and a counter-claim.
5. I have considered the pleadings and the submissions filed by the parties to buttress their veritably incongruent assertions.
6. I find that the orders sought in the application are more or less similar to prayers C and D in the plaint. Granting them at this stage will amount to granting final orders at this stage.
However, to preserve the suit property the court will autonomously order that an inhibition be placed against the suit land to last during the pendency of this suit.
7. In the circumstances, I issue the following orders
 - a. An order of inhibition is hereby issued to be placed against **Land Title Number ISIOLO TOWNSHIP/BLOCK 5/13** pending hearing and determination of this suit.
 - b. Parties are directed to concurrently comply with Order II, Civil Procedure Rules within 30 days of today.
 - c. Parties will come to court for directions on 24th April, 2023.

Delivered in open court at Isiolo this 19th day of December, 2022 in the presence of;

Court assistant: Balazi

Abdullahi holding brief for Gachoka for the plaintiff.

Kirwa holding brief for Mokuu for the defendant.

HON. JUSTICE P.M NJOROGE

JUDGE

