



**Karanja v Wanjama (Sued on his own behalf and as the Chairman of  
Kamae Settlement Scheme ) (Environment and Land Case Civil Suit  
E193 of 2020) [2022] KEELC 15525 (KLR) (8 December 2022) (Ruling)**

Neutral citation: [2022] KEELC 15525 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE CIVIL SUIT E193 OF 2020  
JE OMANGE, J  
DECEMBER 8, 2022**

**BETWEEN**

**MICHAEL NGUGI KARANJA ..... PLAINTIFF**

**AND**

**GEOFFREY MAINA WANJAMA (SUED ON HIS OWN BEHALF AND AS THE  
CHAIRMAN OF KAMAE SETTLEMENT SCHEME ) ..... DEFENDANT**

**RULING**

1. The applicant filed a Notice of Motion application under Certificate of Urgency dated 31<sup>st</sup> day of May, 2022 seeking for the following orders:-
  - a. That the application be certified urgent and be heard ex parte in the first instance.
  - b. That this Honorable Court be pleased to issue an order of injunction restraining the defendants whether by themselves or through their agents, employees or anybody claiming through them or under their name from trespassing into, evading, settling on, selling, subdividing, transferring, charging, mortgaging or in any manner dealing with all that parcel of land known as Land Reference Number 32625 situate in Nairobi County pending the hearing and determination of the application.
  - c. That this Honorable Court be pleased to issue an order of injunction restraining the defendants whether by themselves or through their agents, employees or anybody claiming through them or under their name from trespassing into, evading, settling on, selling, subdividing, transferring, charging, mortgaging or in any manner dealing with all that parcel of land known as Land Reference Number 32625 situate in Nairobi County pending the hearing and determination of the suit.



- d. That the OCPD and OCS Kasarani Police Station to ensure that the orders given herein are enforced and fully complied with.
  - e. That costs be in the suit.
2. The application is premised on the grounds that the applicant is the registered proprietor of all that parcel of land known as Land Reference 32625. The applicant avers that the respondent herein did on the 27<sup>th</sup> May, 2022 invade the suit property as squatters. They were dispersed by the police. It is the applicants case that the respondents have since regrouped and are in the process of invading the suit property.
  3. The application is supported by the affidavit of the applicant in which he avers that he has been in possession of the suit property for 20 years. That on 27<sup>th</sup> May the Respondents made an attempt to forcefully enter the property but were dispersed.
  4. The applicant's averments were uncontroverted in their entirety as the Respondent did not file any documents.
  5. The principles for grant of an injunction were well laid out in the celebrated case of Giella Vs Cassman Brown. These are the issues for consideration before me:-Does the applicant have a prima facie case? Would the applicant suffer irreparable harm that cannot be compensated by way of damages?Lastly where does the balance of convenience lie?
  6. The applicant has produced a certificate of title to prove that he is the owner of the land. As the holder of a title I find he has established a prima facie case against the respondents.
  7. On the limb of irreparable loss, it should be proved that the applicants would not be adequately compensated by way of damages. In the event the respondents invade the suit property damages might not offer adequate compensation. The balance of convenience tilts in favour of issuing orders to protect the status quo as opposed to allowing settling of the squatters to take place and thereafter have to evict them if it is found that they have illegally entered the property.
  8. In addition to these well settled principles the courts have now recognized that Order 1 A and B of the Civil Procedure Rules demands of the courts a responsibility to give effect to the overriding objectives which include; the just determination of the proceedings; the efficient disposal of the business of the Court; the efficient use of the available judicial and administrative resources; and the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties.
  9. However, I have noted that the prayers sought in the application are similar to the prayers in the main suit. As such issuing them as framed would determine the suit at an interlocutory stage. I am also cognizant of the fact that I have not had a chance to hear the defendants. In a matter such as this it is interest of justice and the just determination of proceedings that the court hear evidence of both parties before making final orders. It is also incumbent for the court to preserve the situation while awaiting the hearing
  10. In the circumstances I find that this is a proper case for the court to grant that the status quo be maintained while awaiting the hearing and determination of the suit which should be expedited. The OCPD and OCS Kasarani police station do assist in enforcing the status quo. The plaintiff/applicant is to have costs of the application.

**DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 8<sup>TH</sup> DAY OF DECEMBER 2022.**



**JUDY OMANGE**

**JUDGE**

**In the presence of: -**

Mr. Omondi for Mr. Kenyatta for Plaintiff/Applicant

No appearance for the Defendant

Steve - Court Assistant\*

