



**Enterprises v Wooki & 2 others (Land Case E006 of 2024)
[2025] KEELC 4222 (KLR) (28 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4222 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
LAND CASE E006 OF 2024**

**JM KAMAU, J
MAY 28, 2025**

BETWEEN

LILAC LANE ENTERPRISES PLAINTIFF

AND

DAVID MAINA WOOKI 1ST DEFENDANT

JAMES NJUGUNA KAMAU 2ND DEFENDANT

GOFFREY GITHINJI 3RD DEFENDANT

RULING

1. This suit was filed on 9/3/2024 where the Plaintiff sought for the following Orders against the 3 Defendants David Maina Wooki, James Njuguna Kamau and Geoffrey Githinji.
 1. Eviction orders against the Defendants and/or their employees, servants servants and/or agents from property No. Nyandarua/South Kinangop/4552.
 2. A permanent injunction restraining the Defendants and/or their employees, servants and/or agents from entering into, trespassing onto, developing, utilizing, alienating, committing acts of wastage and destruction , or dealing in any manner with the land known as Nyandarua/ South Kinangop/4552.
 3. General damages for loss damage occasioned on the suit property.
 4. Exemplary damages on the account of trespass to the property.
 5. Special damages amounting to Ksh 8,331,000.00/=
 6. Costs of the suit and interest.
 7. Any other relief this Honourable Court may deem fit and just to grant



2. The same is dated 7/3/2024. The Plaintiff is Lilac Lane Enterprises. For the purpose of the Application dated 24/4/2024 and filed on 3/5/2024 on behalf of the 3rd Defendant, it is averred that the 3rd Defendant is a male adult of sound mind residing and working for gain in Nyandarua and elsewhere in the Republic of Kenya.
3. The Plaintiff avers that she was the registered proprietor of L.R No. Nyandarua/South Kinangop/4552 measuring approximately 25 Hectares at all material times on which the Defendants have intentionally trespassed, encroached and committed acts of destruction and wastage.
4. The Plaintiff lists the particulars of trespass and encroaching on the part of all the Defendant as: -
 1. Unlawfully entering into the suit property.
 2. Unlawfully tilling the suit property.
 3. Illegally removing the beacons and the boundaries as demarcated.
 4. Committing acts of destruction of wastage in the suit property.
5. The Defendant avers that the aforesaid acts of trespass, encroachment, destruction and wastage have caused and continue to cause irreparable loss and damage to the said land and that in spite of several pleas, the Defendants have neglected and/or ignored to make good her claim.
6. She particularizes the damage she has suffered as a consequence as Kshs 9,131,250/= which she claims and prays for in the Plaint. In his Defence, the 3rd Defendant refutes the entire claim by the Plaintiff and denies to have trespassed and/or encroached onto the suit land at any given time. He says that he has no personal interest in Nyandarua/South Kinangop/4552. He says he has never occupied the suit property.
7. In his Motion dated 24/4/2024, the 3rd Defendant asks for Orders:-
 1. To strike out the Plaint dated 7/3/2024 as against the 3rd Defendant as the same discloses no reasonable cause of action or in the alternative.
 2. To strike out the Plaint as against the 3rd Defendant for being scandalous, frivolous and vexatious.
 3. Consequent upon Order 1 or 2 above as the case may be, the suit be struck out with costs to the 3rd Defendant.
8. The grounds upon which the Application is predicated are that: -
 - a. The Plaint discloses no reasonable cause of action against the 3rd Defendant.
 - b. The Applicant herein has no interest in the suit parcel of land nor has he ever had any interest in the suit land.
 - c. This court has no jurisdiction to hear and determine boundary disputes and such is a presence of the land Registrar.
10. On 25/3/2025, the Plaintiff filed a Replying Affidavit in which she repeated that she is the registered proprietor of the property known as Nyandarua/South Kinangop/4552 measuring approximately 25 Hectares and that all the Defendants own adjacent parcels of land and that the suit based on trespass, encroachment, destruction and wastage is genuine and that it is wise that the suit be heard to its completion to assist the court in coming to a just conclusion. She says that she has a reasonable cause



of action and that the issues in the pleadings would be fairly adjudicated if the matter proceeds to full trial and the issues in question are deeply interrogated through oral and material evidence.

11. I allowed the parties herein to file written submissions which I have considered before retiring to write this Ruling. I would say that what the parties have pleaded in this case is one's word against the others. The Plaintiff claims that the Defendants have trespassed and encroached on her parcel of land. The 3rd Defendant says that it is not so. Unless both sides of the divide call for viva voce evidence to prove either there is such trespass or not, it would be difficult for the Court to establish the existence of the trespass, encroachment, destruction and damage. Evidence has to be tabled before the Court. The case is not that simple to be handled by way of Affidavit evidence. In any case, save a mere denial, the 3rd Defendant/Applicant has not tendered evidence to show that there is no cause of action against him. If we were to allow a Defendant to say that when he denies a claim by the Plaintiff then the Court should agree with him, we shall be turning the court to be a laughing stock. Parties must be allowed to present their case in Court and their counterparts to show the flip side in order to reach a fair decision. Otherwise what do you use or apply to determine that on a balance of probabilities so and so has proved his case. I therefore disallow the current Application. Costs in the cause.

RULING DATED AND SIGNED AT NYANDARUA THIS 28TH DAY OF MAY, 2025

HON MUGO KAMAU

JUDGE

In the presence of:

Court Assistant - Samson.

.....for the Appellants

.....for the Respondent

