



**Wambugo v Kumoin & another (Environment & Land Case
E137 of 2024) [2025] KEELC 3682 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3682 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E137 OF 2024**

MD MWANGI, J

MAY 8, 2025

BETWEEN

MARIA GACHONI WAMBUGO PLAINTIFF

AND

RAPHAEL PARSITAU KUMOIN 1ST DEFENDANT

LAND REGISTRAR, KAJIADO 2ND DEFENDANT

RULING

(In respect of the notice of motion dated 3rd December 2024 brought under the provisions of Order 40 Rules 1, 2 and 4 of the Civil Procedure Rules and Section 3A of the [Civil Procedure Act](#))

Background.

1. The application under consideration is the notice of motion dated 3rd December 2024 by the plaintiff herein. The plaintiff/applicant prays for three main orders as follows;
 - a. That this Honourable Court be pleaded to issue a temporary injunction against the 1st defendant/respondent restraining him by himself, agents, servants and or assigns from continuing with the sale to third parties of subdivisions of his parcel number Kjd/Dalalekutuk/2926 until the hearing and determination of this suit;
 - b. That a mandatory injunction be issued compelling the Land Registrar, Kajiado to issue the plaintiff/applicant copies of title deeds and or copies of the green cards bearing the names and title numbers of the resultant subdivisions of Kjd/Dalalekutuk/2926, that encroach on land parcel number Kjd/Dalalekutuk/29897;
 - c. That upon grant of the above prayers, the Land Registrar, Kajiado be compelled to register an order of inhibition on the said title deeds which are the resultant subdivisions of Kjd/



Dalalekutuk/2926 and encroach on the Plaintiff's parcel of land pending the hearing and determination of this suit.

6. The Plaintiff's application is premised on the grounds on the face of it and on the supporting affidavit of Maria Gathoni Wambugo sworn on 3rd December 2024. The application was not opposed by the defendants/respondents despite service.

Issues for determination

6. Having carefully considered the application and the pleadings by the plaintiff as well as the accompanying documents filed in this case, the issue for determination is whether the applicant has made a case for the grant of the orders sought.

Analysis and determination

6. From the plaint filed in this case, this case, the plaintiff pleads that she is the owner/registered proprietor of the parcel of land known as Kjd/Dalalekutuk/29897 measuring 9.04 ha and which is a product of a resurvey on dispute resolution of parcel No. Kjd/Dalalekutuk/15140 (which was under her name).
7. The plaintiff accuses the 1st defendant of trespassing into her land and encroaching a portion of it. The plaintiff asserts that the 1st defendant further went ahead to unlawfully, without the plaintiff's consent, subdivide the encroached portion and sell the resultant subdivisions to third parties, some of whom have even constructed permanent structures therein.
8. The plaintiff alleges that he has been denied access of the encroached portion of his land completely. The plaintiff seeks a raft of orders in the plaint including an order of cancellation of the illegal title deeds that are the resultant subdivisions emanating from JKD/Dalalekutuk/2926 and that encroach onto the boundaries of the plaintiff's parcel of land, Kjd/Dalalekutuk/2989 and an order of eviction.
9. The orders sought in the application are interlocutory orders pending the hearing and determination of the suit. As defined in the case of *Gilbert v Eden* 1878] 9 ch.D, interlocutory applications are those applications;

“Which do not decide the rights of parties, but are made for purposes of keeping things in status quo till the rights can be decided or for purpose of obtaining some directions of the court as to how the cause is to be conducted as to what is to be done in the progress of the cause for the purpose of enabling court ultimately to decide upon the rights of the parties.”

6. The plaintiff's prayer for an interlocutory injunction to prohibit the 1st defendant from continuing to sell to third parties the resultant subdivisions of parcel No. KJD/Dalalekutuk/2926 pending the hearing and determination of this suit is in tandem with the above definition.
7. Further, the law on interlocutory injunctions is well settled. The applicant must establish a prima facie case, demonstrate irreparable injury that he is likely to suffer unless the order of temporary injunction is granted and finally, allay any doubts by showing that the balance of convenience is in his favour.
8. Considering the plaintiff's application against the three conditions for the grant of an order of interlocutory injunction, this court is persuaded that the plaintiff is deserving of an order of interlocutory injunction pending the hearing and determination of her suit. The plaintiff has established a right that needs to be protected. She alleges that the 1st defendant has not only encroached into her land but has gone ahead to dispose of the encroached portion upon subdividing it into several portions. This will not only risk further convoluting the issues herein by bringing in third parties but also aggravate the alleged violations.



9. I further find merit in the prayer compelling the Land Registrar Kajiado to issue the plaintiff/applicant with copies of titles and or green cards bearing the names and the title numbers of the resultant subdivisions of Kjd/Dalalekutuk/29897. The Land Registrar is additionally ordered to inhibit the said titles pending hearing and determination of this suit.
10. The upshot is that the plaintiff's application dated 3rd December 2024 is hereby allowed with costs.
It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 8TH DAY OF MAY 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

Mr. Kiama for the Plaintiff/Applicant

N/A for the Respondents

Court Assistant: MPoye

M.D. MWANGI

JUDGE

