



Aza Motoring Logistics Limited v Lolmoodoni & 2 others (Environment and Land Case E006 of 2024) [2025] KEELC 5120 (KLR) (9 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5120 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT AND LAND CASE E006 OF 2024
LN MBUGUA, J
JULY 9, 2025**

BETWEEN

AZA MOTORING LOGISTICS LIMITED PLAINTIFF

AND

JACKSON LOLMODOONI 1ST DEFENDANT

DAVID LOLMODOONI 2ND DEFENDANT

SAAYO LENAYESA 3RD DEFENDANT

RULING

1. Before me is a notice of motion application dated 17.1.2025 in which the plaintiff seeks orders that summary judgment be entered against the defendants as prayed in the plaint. It is contended that the defendants were served with summons to enter appearance through substituted service, but they did not enter appearance.
2. The plaintiff contends that it is the registered owner of the suit land LR/Sipili Donyoloip Block1/1XX0 Laikipia, but on 14.1.2024, the defendants wrongly trespassed on the said land and started ploughing.
3. The plaintiffs seek the following orders against the defendants;
 - “a) A permanent injunction be and is hereby granted, restraining the 1st and 2nd and 3rd defendants, their agents, employees or servants or anybody else acting on their behalf from trespassing, harassing or in any manner interfering with the quiet possession, ownership, occupation and use of LR No. Sipili Donyoloip Block 1/1XX0 (Laikipia), by the plaintiff, their agents, employees or servants or anybody else acting on their behalf.



- b) Special damages for breach of investment contract with investors from Doha-Qatar on free range goat breeding.
- c) Special damages for loss of future economic use for free range goat breeding of the parcels of land LR No. Sipili Donyolip block 1/1XX0 (Laikipia).
- d) The 1st and 2nd and 3rd Defendants jointly and severally pay general damages for cutting mature trees and indigenous vegetation.
- e) The 1st and 2nd and 3rd defendants jointly and severally pay punitive damages.
- f) The 1st and 2nd and 3rd defendants jointly and severally pay general damages for trespass on LR No. Sipili Donyoloip Block 1/1XX0 (Laikipia).
- g) Cost of this suit be awarded to the plaintiff.

4. In *Beatrice Wanjiru Kamuri v John Kibira Muiruri* [2016] eKLR, it was stated that;

“It will be seen from the above that the claim in our case, being a claim for land, does not qualify for entry of interlocutory judgment”

5. While in *Gichinga Kibutha v Caroline Nduku* [2018] eKLR, it was stated that;

“It is not automatic that in instances where the evidence is not controverted, the claimant’s claim shall have his way in Court. He must discharge the burden of proof. He must proof his case however much the opponent has not made a presence in the contest”

6. What resonates from the above cited law is that a claimant is required to formally proof his case before a court of law despite the absence of the defendant in unliquidated claims. The claim of the plaintiff is unliquidated and falls under the category where the plaintiff has to proof its case via evidence. As such, I find that the application dated 17.1.2025 is not merited, the same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NANYUKI THIS 9TH DAY OF JULY 2025 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Karongo H/B for Mr. Gitau for the Plaintiff

