



**Laset Limited v Koinange (Environment & Land Case E024 of 2023)
[2024] KEELC 1179 (KLR) (6 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 1179 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E024 OF 2023
MN GICHERU, J
FEBRUARY 6, 2024**

BETWEEN

LASET LIMITED PLAINTIFF

AND

DANIEL WAUNTAI KOINANGE DEFENDANT

RULING

1. This ruling is on the notice of motion dated 28/3/2023. The motion which is by the plaintiff is brought under Section 13(1) and (2), 16 A (1) and (2) and 19 (1) and (2) of the [Environment and Land Court Act](#), Sections 1A, 1B, 3A and 63 (e) of the [Civil Procedure Act](#), Articles 48, 50 and 159 (2) (d) of the [Constitution](#) and all other enabling provisions of the law. It seeks the following residual orders.
 3. That a temporary injunction do issue restraining the respondent/defendant, whether by himself, his agents, servants, or any person acting under or through him from interfering with the original beacons and boundaries concerning all those parcels of land being Kajiado/Kitengela/27072-82, 202 and 203 pending the hearing and determination of the main suit.
 4. That the OCS Oloosirkon Police Station to ensure compliance with the above order.
 5. That the costs of this application be provided.
2. The motion is supported by an affidavit sworn by Prof. Nathan Kahara, one of the directors of the plaintiff which has several annexures. There are also ten (10) grounds on which the application is based. In summary the applicant states as follows.

Firstly, he is the registered owner of L.R. Kajiado/Kitengela/27072-82, 202 and 203 which he purchased from the late Ntooki Ole Papu way back in 1982.

Secondly, the respondent fraudulently procured title to L.R. Kajiado/Kitengela/92075 which he subdivided into parcels 100011-1000134.



Thirdly, the subdivision of L.R. 92075 into L.R. 100011-100134 encroached onto the plaintiff's land by 5 hectares.

Fourthly, the plaintiff reported this encroachment to the DCI who found out that the defendant had used forged documents to obtain registration of the plaintiff's land.

Fifthly, the defendant was charged in criminal case at Ngong Law Courts.

Sixthly, if the orders sought are not granted, the defendant may sell the illegally registered land to unsuspecting members of the public and also occasion the plaintiff irreparable loss that cannot be compensated by an award of damages.

3. The motion, though served is unopposed by the respondent who has not filed any reply thereto.
4. Counsel for the plaintiff filed written submissions dated 29/1/2023 in which he identified two issues for determination.
 - a. Whether the applicant has satisfied the criteria for injunctive relief.
 - b. Who bears the costs.
5. I have carefully considered the motion in its entirety including the grounds, affidavit, annexures, the written submissions and the case law cited thereon. I find that the plaintiff has established a prima facie with a probability in that it has shown that its land has been encroached on by the defendant. It has also shown that the defendant may sell off the land. This selling will definitely cause the plaintiff loss and there is no guarantee that the land will be recoverable. It is therefore prudent to allow the motion so as to preserve the subject matter of the suit. The prerequisites to the grant of an order of temporary injunction as set out in the case of *Giella v Cassman Brown* (1973) E.A. 358 have all been met. I therefore allow the motion in terms of prayers 3 and 4. Costs in the cause.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 6TH DAY OF FEBRUARY 2024.

M.N. GICHERU

JUDGE

