



**Miti Limited v Suleiman & 4 others (Environment & Land Case
006 of 2021) [2022] KEELC 3235 (KLR) (6 June 2022) (Ruling)**

Neutral citation: [2022] KEELC 3235 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 006 OF 2021
PM NJOROGE, J
JUNE 6, 2022**

BETWEEN

MITI LIMITED PLAINTIFF

AND

ABDI AZIZ SULEIMAN 1ST DEFENDANT

BISHAT SULEIMAN 2ND DEFENDANT

**NYATA YOUTH GROUP SUED THROUGH ITS CHAIRMAN 3RD
DEFENDANT**

SECRETARY OF LAND, MINISTRY OF LANDS 4TH DEFENDANT

ATTORNEY GENERAL 5TH DEFENDANT

RULING

1. This application is dated 6th August, 2021 and seeks the following orders:
 1. That this application be certified urgent for hearing ex-parte in the first instant due to its urgency.
 2. That in the first instance, the court be pleased to hear that the Application *ex-parte* and the Honorable Court be pleased to issue an order of temporary injunction restraining the 1st – 3rd respondents whether by themselves, their agents, servants or assigns from trespassing encroaching wasting further constructing, conducting any form of business or otherwise interfering or dealing with the applicant property being Isiolo Township Block 5/11 pending the hearing and determination of this application.
 3. That the Honorable Court be pleased to issue an order of temporary injunction restraining the 1st – 3rd respondent whether by themselves, their agents, servants or assigns from trespassing,



encroaching, wasting, construction conducting any form of business or otherwise interfering dealing with the applicant property being Isiolo Township Block 5/11 pending the hearing of the main suit.

4. That the Honorable Court be pleased to order the Officer Commanding Isiolo Police Station to ensure compliance of the order.
 5. That cost of this application be provided for.
2. The application is supported by the affidavit of Stephen Gathogo Njuguna, a director of the Plaintiff and has the following grounds:
1. The plaintiff company is the lawful owner of property Isiolo Township Block 5/11 having bought it from the original allottee one Major C.N Diffu on 18th December, 1991.
 2. The original Allottee did a transfer pending Lease in favor of the applicant and a lease is awaited from the 4th respondent/Defendant's office.
 3. That in November 2011 approval to partially develop the land by fencing it off was granted by the Isiolo County Council, precursor to the Isiolo County Government.
 4. That while the applicant was depositing fencing materials, the 1st, 2nd and 3rd Defendant started interfering and constructing their own house (s) thereon, and dumping heaps of sand for sale therefrom.
 5. That unless the 1st, 2nd and 3rd Defendants and those working at their behest are restrained or enjoined by this honorable court from dealing or interfering with the applicant property the company stands to suffer irreparable damage.
3. The application was canvassed by way of written submissions.
4. The submissions make veritably incongruent assertions. It is the word of one against the word of the other. To find out who is telling the truth, it is necessary that the parties be heard in the main suit. Giving injunctive orders at this stage may end up injuncting parties who are already in possession.
5. I will not allow prayers 2, 3 and 4 in the application. However, in the greater interest of justice, I will grant an order of inhibition against the suit land pending hearing and determination of this suit.
6. Consequently, I issue the following orders:
- a. Prayers 2, 3 and 4 in the application are hereby denied
 - b. An order for inhibition to be registered against the suit land is hereby issued pending hearing and determination of this suit.
 - c. Parties to come for directions on 4/7/2022 and the advocate for the 3rd defendant to serve this date upon the other parties.
 - d. Costs shall be in the cause.

DELIVERED IN OPEN COURT AT ISIOLO THIS 6TH DAY OF JUNE, 2022

in the presence of:

Court Assistant: Balozi

Ashava h/b for the 3rd defendant

All other parties are absent.



HON. JUSTICE P. M. NJOROGI
JUDGE

