



**Ethics and Anti-Corruption Commission v Omondi & 3 others (Anti-Corruption and Economic Crimes Civil Suit E016 of 2024) [2025] KEHC 4908 (KLR) (Anti-Corruption and Economic Crimes) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4908 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
ANTI-CORRUPTION AND ECONOMIC CRIMES  
ANTI-CORRUPTION AND ECONOMIC CRIMES CIVIL SUIT E016 OF 2024  
BM MUSYOKI, J  
APRIL 24, 2025**

**BETWEEN**

**ETHICS AND ANTI-CORRUPTION COMMISSION ..... APPLICANT**

**AND**

**JAMES AMBUSO OMONDI ..... 1<sup>ST</sup> RESPONDENT**

**JANEROSE SANDE OMONDI ..... 2<sup>ND</sup> RESPONDENT**

**JAMES AMBUSO OMONDI & JANEROSE SANDE OMONDI T/A NGIMA  
MEDICARE AND LABORATORY SUPPLIES ..... 3<sup>RD</sup> RESPONDENT**

**JAMES AMBUSO OMONDI & JANEROSE SANDE OMONDI T/A ASKAVILLE  
MEADOWS ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. This ruling is in respect of three applications, one by the plaintiff and two by the defendants. The plaintiff's application which was made orally sought to correct the court ruling dated 19<sup>th</sup> November 2024 in respect to parcel number Kajiado/Kitengela/19151.
2. The defendants' application dated 16<sup>th</sup> January 2025 asks the court to grant the following orders;
  - a. Spent.
  - b. Further proceedings in this case be stayed pending the hearing and determination of COACA/E966/2024- James Ambuso Omondi v Ethics and Anti-Corruption Commission & Others.
  - c. The costs of the application be in the cause.



3. The defendants' other application dated 2<sup>nd</sup> July 2024 prays for the following orders;
  - i. Spent.
  - ii. Vacating order 1 of the ruling and substituting an order directing that EACC's seven-year restriction can and has preserved the land from alienation pending hearing and determination of the suit. The restrictions remain in force until this case is heard and determined pending further court orders.
4. I will deal with each application as follows;

#### **Defendants' application dated 2<sup>nd</sup> July 2024**

5. For obvious reasons this application was wrongly dated because it seeks to change the orders of this court dated 29<sup>th</sup> November 2024 and as such, the same could not pre-date the said ruling. Despite the clear incoherent flow of the prayers this court discerns that the applicant seeks to review this court's ruling dated 29<sup>th</sup> November 2024. The order the defendants seek to review was that;

'The defendants, their respective agents, servants or any other person acting on their behalf are restrained from transferring, disposing, wasting and/or in any other way dealing with parcels of land known as Kisumu/Buoye/1523, Kisumu/Buoye/5295, Kisumu/Buoye/915, Kisumu/Buoye/5299, Kisumu/Korando/4054, Kajiado/Kaputiei North/8889, Kisumu/Kitengela/19151, Kajiado/Kitengela/19155, Kajiado/Kitengela/19169, Kajiado/Kitengela/19197, Kisumu/Kochieng/4203, Kisumu/Kochieng/4202, Kisumu/Sidho East/2945, Kisumu/Sidho East/2206, Kisumu/Kochieng/4080, Kwale/Mahuruni/565, Kajiado/Loodariak/8268, Kajiado/Loodariak/8269 and Kajiado/Loodariak/8270 until hearing and determination of this suit.'
6. The defendants now want the court to change the said orders by vacating the aspect of injunction and instead make an order that the restrictions placed by the plaintiff on the properties do remain in force until the suit is heard and determined. The application does not indicate under which section of the law it has been brought and the court can only assume that the same is seeking review under Order 45(1) of the Civil Procedure Rules.
7. The application is supported by affidavit of James Ambuso Omondi sworn on 10<sup>th</sup> December 2024. The applicants aver that the plaintiff had placed restriction on all the parcels of land in question on the 6<sup>th</sup> November 2017 and the orders dated 29<sup>th</sup> November 2024 were therefore issued in vain as the restrictions had served the purpose sought to be served by the order of injunction.
8. The respondent has opposed the application through replying affidavit of Evans Rono sworn on 22<sup>nd</sup> January 2025. The respondent depones that the restrictions placed on the titles were to subsist up to completion of their investigations and since the investigations are over, they are no longer subsisting. He depones further that the defendants have not shown that there is an error apparent on the face of the record to justify review of the ruling of the court.
9. The defendants are seeking that this court substitutes its orders with the restrictions placed by the plaintiff. This to me is an argument which cannot stand the test of legal sense because court orders take precedence over actions of the parties. It should be noted that by issuing orders, the court places the properties so restricted to its control and processes. Granting the orders as prayed would be tantamount to this court ceding its authority to the plaintiff or the land registrar. The plaintiff does not serve its interest but that of the public and not even the plaintiff can circumvent the court orders without risking sanctions. I find the application a waste of court's time and I do dismiss it with costs.



## Defendants' application dated 16-01-2025

10. In this application, the defendants have averred that they have filed an appeal against Honourable Justice Gikonyo's judgement in this court's petition number E001 of 2024 vide civil appeal number E966 of 2024. They aver further that, they have an arguable appeal which would be rendered nugatory if the proceedings in this matter are not stayed. The only annexure to the supporting affidavit dated 16<sup>th</sup> January 2025 is the memorandum of appeal and the index of the record of appeal.
11. The application was opposed through an affidavit sworn by the plaintiff's investigator one Evans Rono dated 17<sup>th</sup> February 2025. I find the grounds of application argumentative regarding the petition which this court is not seized of and whose details it has not been fully apprised of. The applicants have not exhibited the pleadings or the judgment in the said petition to enable the court appreciate what relationship it has with this matter although it appears to me that the same was challenging investigations by the plaintiff which culminated to the filing of this suit.
12. I have read the defendants' submissions dated 16<sup>th</sup> January 2025 as well as those of the plaintiff dated 25<sup>th</sup> February 2025. The defendants submit that the Honourable Judge allowed late filing of this suit. I have gone through the proceedings in this matter and I am unable to see any order by Justice Gikonyo allowing filing of the suit out of time. Actually, the Honourable Judge has never handled this matter. That means that the matters the defendants are relying on in this application are importations from another matter presumably the said petition number E001 of 2024. Allowing a prayer of this nature will definitely convolute and unnecessarily delay the disposal of the matter. The defendants should answer to the originating motion and narrate its complaints in this matter rather than seeking to stay these proceedings on strength of other proceedings whose relationship with this matter they not established.
13. Reading the supporting affidavit and the submissions of the defendants, I have not seen anything that establishes substantial loss which the defendants stand to suffer if the orders for stay of these proceedings are not granted. It is not for this court to determine whether the defendants have an arguable appeal more so that the alleged appeal does not relate to the matter before this court.
14. In view of what I have stated above, the defendants' application dated 16<sup>th</sup> January 2025 lacks merits and I dismiss it with costs to the plaintiff.

Plaintiff's oral application for correction under Section 99 of the *Civil Procedure Act*.

15. By a letter dated 28-01-2025 and received in this court on 4-02-2025, the plaintiff brought to the attention of this court an error in my ruling dated 29<sup>th</sup> November 2024. Parties appeared before me on 10-02-2025 when the plaintiff submitted orally on its application for correction of the error. In my ruling dated 29-11-2024, I granted the plaintiff's application dated 10<sup>th</sup> June 2024 which had prayed for the following main order;

That pending the hearing and determination of this suit, this honourable court be pleased to grant an order of injunction restraining the Respondents, their respective agents, servants or any other persons from transferring, disposing, wasting and/or in any other way dealing with the parcels of land known as Kisumu/Buoye/1523, Kisumu/Buoye/5295, Kisumu/Buoye/915, Kisumu/Buoye/5299, Kisumu/Korando/4054, Kajiado/Kaputiei North/8889, Kajiado/Kitengela/19151, Kajiado/Kitengela/19155, Kajiado/Kitengela/19169, Kajiado/Kitengela/19197, Kisumu/Kochieng/4203, Kisumu/Kochieng/4202, Kisumu/Sidho East/2945, Kisumu/Sidho East/2206, Kisumu/Kochieng/4080, Kwale/Mahuruni/565, Kajiado/Loodariak/8268, Kajiado/Loodariak/8269 and Kajiado/Loodariak/8270 until hearing and determination of this suit."



16. The plaintiff has pointed out to this court that the ruling had an error in that parcel number Kajiado/Kitengela/19151 which was properly described in the prayer was indicated as Kisumu/Kitengela/19151 in the final orders of court. The defendants' advocate informed the court that they had no objection to the correction of the error. It is clear to me that there was an error in my ruling dated 29<sup>th</sup> November 2024 as pointed out by the plaintiff.
17. The discretion of the court donated by Section 99 of the *Civil Procedure Act* is meant to make amends to mistakes or errors arising from a slip of the pen or inadvertent and open mistakes as the current one. I do therefore exercise my discretion and correct the said error and order that the final orders of the ruling dated 19<sup>th</sup> November 2024 shall read as follows;
  1. The defendants, their respective agents, servants or any other person acting on their behalf are restrained from transferring, disposing, wasting and/or in any other way dealing with parcels of land known as Kisumu/Buoye/1523, Kisumu/Buoye/5295, Kisumu/Buoye/915, Kisumu/Buoye/5299, Kisumu/Korando/4054, Kajiado/Kaputiei North/8889, Kajiado/Kitengela/19151, Kajiado/Kitengela/19155, Kajiado/Kitengela/19169, Kajiado/Kitengela/19197, Kisumu/Kochieng/4203, Kisumu/Kochieng/4202, Kisumu/Sidho East/2945, Kisumu/Sidho East/2206, Kisumu/Kochieng/4080, Kwale/Mahuruni/565, Kajiado/Loodariak/8268, Kajiado/Loodariak/8269 and Kajiado/Loodariak/8270 until hearing and determination of this suit.
  2. For clarity the above order does not restrain the defendants from using and occupying the named properties but they shall not interfere with the properties' status and title.
  3. The costs of the application shall be in the cause.

**DATED SIGNED AND DELIVERED AT NAIROBI THIS 24<sup>TH</sup> DAY OF APRIL 2025.**

**B.M. MUSYOKI**

**JUDGE OF THE HIGH COURT.**

Judgment delivered in presence of Miss Wairimu Kabuu for the plaintiff and absence of the defendants.

