



Masai v Mwachi (Matrimonial Case 4 of 2023) [2025] KEHC 6480 (KLR) (16 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6480 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MATRIMONIAL CASE 4 OF 2023**

S MBUNGI, J

MAY 16, 2025

BETWEEN

MELLAB ORANGA MASAI APPLICANT

AND

PIUS MASAI MWACHI RESPONDENT

RULING

1. By notice of motion dated 9.10. 2023 the Applicant asked this court to issue an order for preservation preventing any form of dealings on Land parcels Registration numbers Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX, Butso/so/Shikoti/XXXX and for an order that the Land Registrar Kakamega Lands Registry to ensure compliance with the orders if issued.
2. The Application is premised on the grounds on its face and supporting affidavit of the Applicant Mellab Oronga Masai sworn on 9.10.2023 and a supplementary affidavit sworn by herself on 13.8.2024 .
3. The Application is opposed by the respondent Pius Masai Mwachi via a replying affidavit sworn on 29.11.2023 and a further replying affidavit sworn on 27.3.2025 .
4. The parties were to file submissions to dispose of the application by the time of writing this ruling no submissions had been filed by either.
5. I have looked at the affidavits filed by both parties, they essentially talk about how each acquired and contributed to the development of the property acquired during the subsistence of their marriage.
6. It is not in dispute that the applicant must have contributed some percentage either in acquiring or in developing the property acquired during the subsistence of the marriage, what is in issue is what percentage, therefore she has a stake in the matrimonial property.



7. Whether the property listed in the application is matrimonial property or not will depend on the evidence which will be adduced by the parties.
8. Since the Applicant has a stake by virtue of having been married to the respondent is only fair that the these properties claimed to be matrimonial property be preserved until the suit is determined.
9. From the foregoing, I find the application has merit and I do allow it in terms of prayer 3 and 4 of the application .
10. Costs in cause.
11. Right of Appeal 30 days explained.
12. Mention on 26.6.2025 for directions on the main suit.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 16TH DAY OF MAY, 2025.

S.N MBUNGI

JUDGE

In the presence of :

Court Assistant – Albright Sunguti

Ms Wangui holding brief for Mr. Ochuka for the Applicant, present.

Parties absent.

