



**Décor Gypsum Board Limited v Lin & 4 others (Civil Case
E008 of 2024) [2025] KEHC 12670 (KLR) (9 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12670 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CIVIL CASE E008 OF 2024
FN MUCHEMI, J
SEPTEMBER 9, 2025**

BETWEEN

DÉCOR GYPSUM BOARD LIMITED PLAINTIFF

AND

CHEN LIN 1ST DEFENDANT

ZHU GUILIN 2ND DEFENDANT

DÉCOR BOARD COMPANY LIMITED 3RD DEFENDANT

LIN XIANHUA 4TH DEFENDANT

LIN JIAXING 5TH DEFENDANT

RULING

Brief Facts

1. The application for determination dated 24th April 2025 seeks for orders of an injunction restraining the defendants, their servants and/or agents from entering upon, trespassing upon, taking over, or conducting any business in any other manner whatsoever with the plaintiff's equipment, machines and factory accessories pending the hearing and determination of the suit.
2. The 2nd, 4th and 5th respondents opposed the application by filing grounds of opposition dated 9th May 2025.

The Applicant's Case

3. The applicant states that it is the lawful and legal business owner having set up the factory after importing machines, equipment and the necessary accessories to facilitate the manufacture of gypsum boards. The applicant states that it further obtained all the licences, approvals and met all regulatory



requirements outlined for running a gypsum manufacturing factory from Kenya Bureau of Standards, National Environment Management Authority and the County Government of Kiambu.

4. The applicant avers that it is the aggrieved tenant of the premises controlled by the 1st respondent and it has emerged that there was a scheme to take over its business using the 3rd respondent which was secretly registered and has a name strikingly similar to that of the applicant. Thus preservatory orders are required to ensure that the business set up in the premises is not destroyed.
5. The applicant states that when it became apparent that it would not allow its business to be taken over by the respondents without paying for it, the respondents became violent and used force to chase away its servants and agents who were running the factory which confrontation resulted into actual body harm and injuries leading to the 2nd respondent being charged with criminal offences in MCCR 1389 of 2023 and the 1st and 2nd respondents charged in MCCR 1405 of 2023 in the same court.
6. The applicant avers that the respondents who forcefully ejected its servants from the factory premises, have been accessing the building and in a clandestine way are said to be involved in using the machines and equipment in the factory to produce gypsum boards and selling them under cover using the materials imported by the applicant and they do not account to the applicant for the sales made.
7. The applicant asserts that its machines and equipment are highly sensitive computerized equipment imported at a high cost and they require protection from interference yet the respondents do not have the full requisite skills required to efficiently operate them which may result in the total ruin of the machines unless protection is granted by the Honourable court. The applicant further states that if the respondents have been using the machines, they have cracked the secret codes earlier installed which compromises the security of the systems and features installed by the machine manufacturers thus lowering the value of the machine and that would be a very high risk for the applicant.
8. The applicant argues that unless the court intervenes and issues Anton Pillar Orders to be supervised by the Deputy Registrar, its entire business set up risks being jeopardized by the respondents who have taken the law into their own hands. The applicant is apprehensive that unless the respondents are restrained by injunctive orders, they will further defeat its rights to set up and manage a factory business involved in the manufacture of gypsum boards and will suffer irreparable loss which is incapable of being sufficiently compensated by an award of damages.
9. The applicant states that before its agents and servants were forcefully ejected from the premises, it had manufactured and stocked gypsum boards which were ready for the market and it received information that those boards could have already been sold and thus it is necessary to inspect the factory and confirm whether or not the already manufactured gypsum boards are in the factory.

The 2nd, 4th & 5th Respondents' Case.

10. The respondents state that the application dated 25th April 2025 is an abuse of the court process as there are court orders dated 4th July 2024 for status quo with a pending application by the plaintiff dated 29th June 2023 which is yet to be prosecuted.
11. Parties put in written submissions.

The Applicant's/Plaintiff's Submissions.

12. The applicant relies on the cases of Nguruman Limited vs Jan Bonde Nielsen & 2 Others [2014] eKLR and Mrao Ltd vs First American Bank of Kenya Ltd & 2 Others [2003] KLR 125 and submit that it has a prima facie case with high chances of success. The applicant submits that it has established that it paid for the machines and imported them after paying for them by way of bank transfers and importation



documents. It has further demonstrated that it applied for and received all statutory and regulatory approvals and the respondents have now interfered with the running of the factory yet they have not demonstrated through any of their documents that they have an equivalent claim against the specific machines. Thus, the applicant submits that it has established that it has rights which could have been or will be infringed upon if the injunction is not granted.

13. The applicant submits that it imported the machines and equipment at great costs and that the said machines were complicated and computerized and require skills to be operated efficiently and properly. The applicant further submits that it also imported raw materials and had started manufacturing the gypsum boards when its business operations were interfered with. Thus there is a danger that unless checked, the machines will be permanently spoilt by untrained persons who might be deployed by the respondents to use them without its consent. The machines and equipment require protection against vandalism and other unwarranted forceful use. Thus in the event the said machines get spoilt and messed up, they may require an expert to be brought in from the manufacturing company or have the machines taken back for reconfiguration which will be at a great cost which cannot be contemplated and such a scenario ought to be avoided by granting orders for protecting them. The applicant argues that there is no indication or guarantee that the respondents have the financial capacity to make such damages and the time required to fix the damage which it may suffer in the event the orders sought are not granted.
14. The applicant further submits that there was a serious mischief when the 1st and 2nd respondent incorporated the 3rd respondent with a name which was strikingly similar to that of the applicant which must have been for ulterior motives.
15. The applicant argues that the balance of convenience lies in its favour since the purpose is to preserve the machines and equipment forming the basis of the suit herein. The applicant submits that the machines and equipment comprised in the factory are housed in the premises it had a tenancy agreement with the 1st respondent, thus the control of the premises is under the directive of the 1st respondent. Therefore it is important that the status of the said machines and equipment be established as its servants and agents cannot freely walk in and confirm the condition of things they left behind when they were forcefully ejected. They further cannot ignore the information they have received to the effect that the respondents are unlawfully and illegally using their machines and equipment to manufacture gypsum boards and have sold the boards which had already been manufactured before its servants were kicked out.
16. The applicant argues that it is important and inevitable that an inspection be carried out by an officer of the court, the Honourable Deputy Registrar and assisted by agents of both parties to ascertain the condition of the factory. Relying on the case of *Chatur Radio Service vs Pronogram Limited* [1994] KECA 111 (KLR), the applicant argues that it has met the conditions for granting an Anton Pillar order to enable the inspection of the factory and establish what could be happening and what is the status and condition of the machines and equipment, including the raw materials and already manufactured boards which were left behind.

The 2nd, 4th & 5th Respondents'/Defendants' Submissions.

17. The respondents submit that the instant application seeks similar orders as the application dated 29th June 2023 which is yet to be prosecuted. The Honourable Court issued orders on 5th July 2023 that status quo be maintained pending the hearing and determination of the application dated 29th June 2023. Thus, the respondents argue that the instant application is an abuse of the court process as it seeks the same relief that was previously sought in the application dated 29th June 2023.



The Law

Whether the application has merit

18. I have perused the record and noted that the applicant filed an application dated 29th June 2023 under certificate of urgency, seeking for orders of an injunction to issue against the respondents, their servants, agents or contractors from entering upon, trespassing upon, or taking over, or conducting any business in any other manner howsoever interfering with the applicant's quiet enjoyment, possession and proprietorship rights of the business premises located at Makongeni off road A Three; Kamenu Ward Thika; Kiambu County and the business equipment therein; the freezing of the bank accounts of the respondents in National Bank and allow the applicant access into the premises and sell the already finished products in the suit premises being gypsum boards. The court gave orders that parties maintain status quo pending the determination of the application and that the OCS Makongeni Police station Thika to avail security for maintenance of peace and status quo as per the court's orders and directions on various orders by the Chief Magistrates Court and the current court. The court directed that the matter be mentioned on 18/7/2023 for directions on consideration of the two matters and directions of the same. The applicant has currently filed a similar application in the instant court seeking similar injunctive orders. It is evident that the application dated 29th June 2023 has not been heard and determined. It is on record that there are status quo orders in place to last until the application is heard. Furthermore, the respondents filed an application dated 3rd and 5th July 2023 seeking for orders of an injunction restraining the applicant from entering upon or trespassing or conducting any business in the suit premises and stay of the orders issued on 29th June 2023 for parties to maintain status quo respectively. The court gave directions on 5th July 2023 in respect of application dated 3rd July 2023 and stated that the status quo be maintained as directed on 29th June 2023.
19. Therefore, the status quo orders are still in place and have not been set aside, stayed or varied. As such, the instant application is an abuse of the court process as it seeks similar orders yet there are status quo orders in place for preservation of the applicant's property.
20. Consequently, this application is, misconceived and it is struck out with costs
21. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 9TH DAY OF SEPTEMBER 2025.

**F. MUCHEMI
JUDGE**

