



Friends of Maasai Mara Limited & another v Nirenstein (Civil Case E001 of 2024) [2024] KEHC 5672 (KLR) (20 May 2024) (Ruling)

Neutral citation: [2024] KEHC 5672 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAROK
CIVIL CASE E001 OF 2024
F GIKONYO, J
MAY 20, 2024**

BETWEEN

FRIENDS OF MAASAI MARA LIMITED 1ST PLAINTIFF

MARA NAPA CAMPS LIMITED 2ND PLAINTIFF

AND

MICHELLE NIRENSTEIN DEFENDANT

RULING

1. On 23rd day of April, 2024, when the matter was scheduled for mention to confirm compliance on directions given on the application dated February 6, 2024, the applicants made a request of an order of interim relief to prevent interference with their business by the defendant. The court scheduled the matter for ruling on the request on May 20, 2024.
2. The court has considered the request, the affidavits filed and the following pertinent matters arise.
3. The Plaintiffs seeks to prevent the defendant from interfering with day to day activities, the emails, website domains, correspondences, social media pages, staff/employees issues and other related matters.
4. The defendant claims that the issues in this case have been packaged as independent dispute amongst the parties, yet, they are inextricable to ownership dispute of the properties on which the camp is built as well as ownership of the Mara Napa Luxury Camps itself. And, that the said ownership dispute is subject of Narok ELC Case No. E003 of 2024 in which the court has issued an injunction against the applicants from dealing in the suit properties as well as operations of Mara Napa Luxury Camps.
5. The defendant has also made claims that, registration of the plaintiffs as limited liability companies by Mr. Harrison in names identical to those of the registered owner of the lands in question before ELC and the camps are in furtherance of fraud upon the defendant.



6. Moreover, the defendant claims that the emails, website domains, correspondences, social media pages, employees issues and other similar matters were all purchased by him.
7. Parties have taken quite adversarial posture on the issues. And, the court is yet to hear the parties on their respective allegations.
8. Nonetheless, it is not disputed that an injunction has been issued by ELC which touch on land on which the camps stand as well as the operations of the camps. The fear expressed by the defendant of issuance of conflicting orders may not be dismissed at this stage, especially before the court has heard all the parties in the main application including the effect of the said ELC order on these proceedings. This is the danger this court refers to as: Concurrent jurisdiction: distributional consequences.
9. Distributional consequences arise where different courts with concurrent jurisdiction- for instance, the High court and ELC- exercise the jurisdiction simultaneously. There may be wide distributional consequences on either side or both, which includes the potential of creating far greater injustice, such as routing of rights guaranteed in law through balancing of interests of parties. Embarrassment may also arise from the possibility of the orders of the two courts being in conflict or a negation of the other.
10. Because of this possibility, prudential consideration would be not to grant any measure of interim relief. Instead, follow through on the hearing of the main application in accordance with the directions issued by the court thereto wherein the court will make informed determination.
11. In sum, the request for interim measure of relief is declined. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 20TH DAY OF MAY, 2024.

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Hon. F. Gikonyo M.

Judge

In the presence of: -

Nyambochwa for plaintiff

Oyomba for defendants

Otolo C/A

