



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC. CASE NO. E310 OF 2021

SWEETLAND HOLDINGS LIMITEDPLAINTIFF

VERSUS

VECTOR PROJECTS LIMITED.....1ST DEFENDANT

ILLUMINE INTERNATIONAL LIMITED.....2ND DEFENDANT

CHRIS MUTURA KARUMBA

T/A SOLUTIONS INTEL & GLOBAL CONSULTANTS.....3RD DEFENDANT

RULING

1. Before me is an application dated 23.8.2021 seeking injunctive orders against the Respondents restraining the latter from trespassing, wasting, constructing or, demolishing, alienating or otherwise interfering or dealing with the Parcel No. NAIROBI/BLOCK 72/2936 – LANGATA MALL pending the hearing of the application and the suit.

2. When the application came up for *interpartes* hearing, Counsel for the Applicant informed the court that he had effected service. However, no responses have been filed by the

Respondents. The application is therefore unopposed.

3. In the Supreme Court of Kenya case of **Tullow Oil PLC & 3 Others vs. Permanent Secretary Ministry of Energy and 15 Others (2020) eKLR**, the court stated that:

“In other circumstances, depending on the nature, where an application is unopposed, and the court sees merit in it, then it should be granted without much ado”

4. Thus the court has a duty to consider if an application has merits even if it is unopposed. In the present case the Applicant is seeking injunctive orders against the Respondent in the application while in the plaint, he is seeking for their eviction. In their submission, the applicant avers that.

“The Respondents despite several reminders and demands have blatantly refused to comply and or vacate the suit premises. They continue to illegally occupy/or trespass on the same as there is no formal engagement with the landlord and as such they are not remitting any Rent.”

5. It is crystal clear that the orders sought by the Applicant in their application are not in tandem with the pleadings. The Respondents are in occupation of the land hence granting the injunction orders at this stage would amount to issuance of a major relief sought in the plaint.

6. In the case of **Daniel Atibu Joginda v Ainea Sandanyi Mogara[2015] eKLR**, the court state that:

“since the Plaintiff’s suit is for eviction of the Defendant from the said residence, such an injunction will amount to granting a major relief in the suit without the benefit of hearing”

7. Likewise in the present case, I decline to grant the orders sought at this stage of the trial. The application dated 23.8.2021 is dismissed with no orders as to costs.

8. The Plaintiff should hasten to have the main suit prosecuted.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF OCTOBER, 2021 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Mr. Kaburu for the Plaintiff/Applicant

Court Assistant: Eddel