



REPUBLIC OF KENYA



KENYA LAW
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Kangawa Junior Company Limited v Ndirangu & another (Land Case E023 of 2025) [2025] KEELC 4814 (KLR) (26 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4814 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
LAND CASE E023 OF 2025
A OMBWAYO, J
JUNE 26, 2025

BETWEEN

KANGAWA JUNIOR COMPANY LIMITED PLAINTIFF

AND

FRANCIS GATHAMBO NDIRANGU 1ST DEFENDANT

JOHN ARAP KURUI MURUSI 2ND DEFENDANT

RULING

Brief Facts

1. The Plaintiff/Applicant filed the instant application dated 13th March, 2025 seeking the following orders:
 1. Spent.
 2. Spent.
 3. Spent.
 4. That an order of injunction do issue restraining the defendants by themselves, agents and/or servants from charging, subdividing, selling, transferring or doing any act on all those parcels of land known as LR Nos 9299/45, 46, 47 & 48 and the title deeds thereto pending the hearing and determination of this suit.
 5. Costs of this application be provided for.
2. The Application was based on grounds set out and supported by the Affidavit of Joseph M. Kiboi the Chairman of the Plaintiff sworn on 13th March, 2025. He stated that the Plaintiff was the registered proprietor of all that parcel of land known as LR Nos 9299/45, 46, 47 & 48. He stated that the original



certificate of title has been in the custody of its surveyor since 2002. He stated that they have been following up the process of consolidation, survey and subdivision to have titles to all members.

3. He further stated that the 1st Defendant has been bringing unknown members to the suit parcels without any authority. He stated that the 1st Defendant has filed numerous cases against the Plaintiff which have all been dismissed. He stated that the Defendants went to the surveyor's office and misled them that they were the Plaintiff's directors and took the original titles through their agent James Mwangi Gakuo.
4. He stated that the Defendants had no authority to direct the M/S Muritu & Associates to release the titles. He added that upon discovery of the same, they instructed their lawyers who wrote to the surveyors to stop release of the said titles. He stated that the Defendants have been advertising to the members of the company and the public that the land belonged to them. He also stated that the said agent has been retained by the Defendants to effect transfer of the land parcels.
5. He stated that unless the Defendants are stopped, they will proceed with the said acts and evict the lawful members of the Plaintiff from their land.

Response

6. The Respondent filed his Replying Affidavit sworn on 7th April, 2025 where he averred Submissions
7. Parties did not file submissions.

Analysis and Determination

8. This court has considered the application and supporting affidavit and is of the view that the main issue for determination is whether the Plaintiff/Applicant is entitled to an order of temporary injunction.
9. The principles upon which the court should grant an injunction were set out in the case of *Giella V Cassman Brown & Company Ltd* 1973 EA 358 as follows:
10. First, the applicant must show that he has a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury which would not adequately be compensated by damages. Thirdly, if the court is in doubt, it will decide the application on a balance of convenience." Further, in the case of *Mrao V First American Bank of Kenya Limited* (2003) eKLR Bosire JA (as he then was) stated as follows:

"A prima facie case is one which on the material presented to the court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter"
11. The chairman for the Plaintiff/Applicant company contends that it's the registered owner of the suit properties being LR Nos 9299/45, 46, 47 & 48. He also contends that the Defendant/Respondents went to the surveyor's office and misled them that they were the Plaintiff's directors and took the original titles through their agent James Mwangi Gakuo.
12. The Defendants/Respondents did not file any response to the application thus the same remained uncontroverted. It is this court's view that on the face of record, it is a fact that the suit properties are registered in the Plaintiff's name. This is evidenced by the Certificate of Title issued on 12th April, 2000. The Plaintiff/Applicant has therefore demonstrated a prima facie case with a probability of success. In the circumstance, I find and hold that the balance of convenience tilts in favour of maintaining the status quo of the suit property pending the hearing and determination of the main suit. It is this court's view that for purposes of clarity, status quo in this instance is that the suit property



should remain as it is from the date of this ruling and the Defendant/Respondent or any other party is restrained the defendants by themselves, agents and/or servants from charging, subdividing, selling, transferring or doing any act on all those parcels of land known as LR Nos 9299/45, 46, 47 & 48 and the title deeds thereto pending the hearing and determination of this suit. The costs of the application shall be in the cause. It is so ordered.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.

NAKURU ENVIRONMENT AND LAND COURT

ENVIRONMENT AND LAND COURT

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