



**HMK v BMN (Matrimonial Cause E006 of 2025)
[2025] KEHC 13587 (KLR) (29 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13587 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MATRIMONIAL CAUSE E006 OF 2025
JM NANG'EA, J
SEPTEMBER 29, 2025**

BETWEEN

HMK APPLICANT

AND

BMN RESPONDENT

RULING

1. The Applicant brings these proceedings by Originating Summons dated 19th March 2025 seeking the following reliefs:-
 1. That declaration do issue that all those properties known as as Plot. No. XXXXX/XX/11 Kiratina, Naivasha/oljorai Phase 11/XXXX And Kajiado/kaputiei North/XXXXX together with all buildings and developments thereon are held by the Respondent for his own benefit and as a trustee of the Applicant.(sic)
 2. That a declaration do issue that all those properties known as Plot. No. XXXXX/XX/11 Kiratina, Naivasha/oljorai Phase 11/XXXX And Kajiado/kaputiei North/XXXXX are matrimonial property that were acquired by the joint funds and efforts of the Applicant and the Respondent during the subsistence their marriage.(sic)
 3. That a declaration do issue that a constructive trust has risen in favour of the applicant over that property known as Plot. No. XXXXX/XX/11 Kiratina on which the matrimonial home as well as rental units are located.(sic)
 4. That the Respondent, either by himself, his agents and/or servants, or otherwise howsoever be restrained from alienating, selling, leasing, charging, encumbering and from disposing or dealing with the said properties in any manner prejudicial with the interest of the Applicant without her consent.(sic)



5. That a declaration do issue that the Applicant has a right to live in and use the rental properties she constructed on the matrimonial properties.(sic)
 6. That an order be issued directing the Respondent to render accounts of the rental proceeds he has collected from the applicant's rental houses from 25th October when the Divorce court issued its judgment till judgment or further orders of this court.
 7. That an order do issue directing the Respondent to give half share of the rental income}} from all the matrimonial properties and the income generated from the business to the Applicant herein.(sic)
 8. That an order do issue directing the Respondent to transfer half of the matrimonial}} property in favour of the Applicant. (sic)
 9. That the cost of this suit and incidentals thereto be borne by the Respondent.}}(sic)
2. Simultaneously the Applicant filed a Notice of Motion of even date for orders as hereunder:-
1. Spent
 2. That this honourable court be pleased to order the Respondent/Respondent to account for all the rent proceeds collected front the rental houses located within the matrimonial property from 25th October 2023 till filing of this claim.(sic)
 3. That this honourable court be pleased to issue an order directed at the respondent to remit to the applicant the sum of Ksh. 16,000/- per month being the rental income from the date of filing of this application till hearing and determination of this application and the main suit herein.
 4. That in the alternative to order 3 above, this court be pleased to allow the applicant to}} collect rent from the rental houses constructed by the applicant on the matrimonial property consisting of 1 one bedroomed house and 1 two bedroomed house pending hearing and determination of this application and the main suit.(sic)
 5. Spent.
 6. That this Honourable court be pleased to grant a temporary injunction restraining the}} Respondent from selling, leasing, mortgaging, charging, and transferring all those parcels of land known as Plot. No. XXXXX/XX/11 Kiratina, Naivasha/oljorai Phase 11/XXXX and Kajiado/kaputiei North/XXXXX pending the hearing and determination of the main suit.
 7. Spent.
 8. That this Honourable court be pleased to issue a temporary injunction restraining the}} Respondent either by himself, his employees, agents, or otherwise howsoever from carrying out any developments on all those parcels of land known as Plot. No. XXXXX/XX/11 Kiratina and in particular the rental houses set up by the Applicant without the written consent of the Applicant or from harassing, intimidating, denying access or otherwise interfering with the Applicant's, use and quiet enjoyment and possession of her rental houses located on the property known as Plot. No. XXXXX/XX/11 Kiratina pending the hearing and determination of this application.
 9. Spent.



10. That an order be issued directing the Respondent to surrender half of the rental income from the rental and business income to the Applicant pending the hearing and determination of the main suit.(sic)
 11. That this honourable court be pleased to grant such further orders and reliefs as it may deem just and fit to grant for the interests of justice.
 12. That the costs of this application be provided for.
3. On 27th June 2025 the court allowed prayers 5 and 7 of the Application in the interim.
 4. The Respondent has not filed replies to both the Originating Summons and the interlocutory application despite evidence of service of the same. The Applicant urges the court to allow the Application as unopposed.
 5. Indeed the Application is uncontested there being no reply thereto. The same is allowed as follows:-
 1. That a temporary injunction is hereby issued restraining the}} Respondent from selling, leasing, mortgaging, charging and/or transferring all those parcels of land known as Plot. No. XXXXXX/XX/11 Kiratina, Naivasha/oljorai Phase 11/XXXX And Kajiado/kaputiei North/XXXXX pending the hearing and determination of the main suit.
 2. That a temporary injunction is hereby issued restraining the}} Respondent either by himself, his employees, agents, or otherwise howsoever from carrying out any developments on all those parcels of land known as Plot. No. XXXXXX/XX/11 Kiratina and in particular the rental houses set up by the Applicant, without the written consent of the Applicant or from harassing, intimidating or denying the Applicant access or otherwise interfering with the Applicant's, use and quiet enjoyment and possession of her rental houses located on the property known as Plot. No. XXXXXX/XX/11 Kiratina pending the hearing and determination of this suit.
 6. The court declines to grant prayers 2, 3, 4, 9 and 10 at this stage. Let the same be canvassed at the hearing of the main claim.
 7. The costs of the Application shall be in the Cause.

RULING DATED, DELIVERED AND SIGNED AT NAKURU THIS 29TH DAY SEPTEMBER, 2025.

J. M. NANG'EA

JUDGE

In the presence of:-

Ms Lang'at Advocate for the Applicant

Respondent, Absent

Court Assistant - Jeniffer

