



**Oluoch v Murithi (Environmental and Land Originating Summons
E002 of 2025) [2025] KEELC 6451 (KLR) (29 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6451 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E002 OF 2025
MAO ODENY, J
SEPTEMBER 29, 2025**

BETWEEN

JACOB ONYANGO OLUOCH APPLICANT

AND

PURITY NJAMBI MURITHI RESPONDENT

RULING

1. This ruling is in respect of the Plaintiff/Applicant's Notice of Motion application dated 13th January 2025 which seeks the following orders:
 - a. Spent
 - b. That pending the hearing and determination of this suit, this Honourable Court be pleased to issue an order of temporary injunction restraining the defendants by themselves, agents, servants from harassing, charging, arresting offering for sale, either by public auction or private treaty evicting, leasing, mortgaging and in whatsoever way the parcel of land Nakuru/Municipality Block 29/908 (Ronda) or its Attendant Manifestation After Subdivision.
 - c. That pending the hearing and determination of this suit, this Honourable Court be pleased to issue an order of temporary injunction restraining the defendant/respondent by itself, agents, servants from harassing, charging, arresting transferring ownership of land evicting, leasing, mortgaging and in whatsoever way the parcel of land Nakuru/Municipality Block 29/908 (Ronda) or its Attendant Manifestation After Subdivision to any 3rd party.
 - d. An order do issue ordering the District Land Registrar Nakuru to issue a certified copy of green card OR title deed in relation to the parcels of land Nakuru/Municipality Block 29/908 (Ronda) or its Attendant Manifestation After Subdivision.
 - e. Spent



- f. That an order of status quo be issued in favour of the plaintiff pending inter partes hearing of the main suit.
 - g. That the costs of this Application be provided for.
2. The application is supported by the annexed affidavit of Jacob Onyango Oluoch, the Plaintiff/Applicant, sworn on 13th January, 2025, and deponed that he has resided on the parcel of land known as Nakuru/Municipality Block 29/908 (Ronda) since 1974. He further stated that the Defendant/Respondent is the registered proprietor of the said parcel who is using the Police to harass him.
 3. The Applicant stated that he has stayed on the suit parcel of land for over fifty years and Defendant/Respondent has never been in possession and has been aware of his occupation. He urged the court to allow the application as prayed.

Plaintiff/Applicant's Submissions

4. Counsel for the Applicant filed submissions dated 11th June, 2025, and submitted that the Applicant has satisfied the three conditions for the grant of an interlocutory injunction.
5. Counsel submitted that the applicant has established a prima-facie case as he has stayed on the suit land for over 50 years and the Respondent has lost any known right to the parcel of land. Counsel relied on the cases of *Giella vs Cassman Brown & Co Ltd (1973) E.A 358*, *Mrao Ltd vs First American Bank of Kenya Ltd & Others [2003] eKLR* and *Nguruman Ltd vs Jan Bonde Nielsen & 2 others [2014] eKLR*.
6. It was counsel's submission that the Respondent has not challenged the Applicant's occupation, and if an order of injunction is not granted, the Applicant may be evicted and the property sold which will occasion him great prejudice and damage. Counsel relied on the case of *Jactone Nzioka Munyanga vs Sitola Kinyila (2015) eKLR*, and submitted that the balance of convenience tilts in favour of the Applicant. Counsel urged the court to allow the Application as prayed.

Analysis and Determination

7. The issue for determination is whether the Applicant has met the threshold for a grant of a temporary injunction pending the hearing and determination of the suit.
8. One must show that he/she has a prima facie case with a probability of success, will suffer irreparable loss which would not adequately be compensated by an award of damages, and if the court is in doubt, it will decide on a balance of convenience. The Applicant must prove that the suit land in dispute is in danger of being wasted, damaged or alienated by any party to the suit or wrongfully sold in execution of a decree or that the defendant threatens or intends to remove or dispose of the property. If such is proved, then the court can grant such orders of injunction to preserve the substratum of the suit property and the case.
9. The Applicant contends that he has established a prima-facie case as he has stayed on the suit land for a long time, and the Respondent has lost any known right to the parcel of land. The Applicant further informed the court that if an order of injunction is not granted, he may be evicted and the property sold which will occasion him great prejudice and damage.
10. The court perused the annexures in support of the Application and the Originating Summons but did not see a copy of the title in respect of the suit land. Further, the Applicant claimed that the Respondent is harassing him with the Police, but there was no such evidence.



11. I have considered the application, submissions by counsel and find that the Applicant has not met the threshold for the grant of a temporary injunction. He has not shown what loss he will suffer if the orders sought are not issued and therefore the Application is dismissed with no orders as to costs.

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

M. A. ODENY

JUDGE

