



**Malel v Chepkirong (Environment and Land Case E013 of 2023)
[2025] KEELC 6755 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6755 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND CASE E013 OF 2023
GMA ONGONDO, J
OCTOBER 6, 2025**

BETWEEN

JOEL KIPKOSGEI MALEL PLAINTIFF

AND

EMILY CHEPKIRONG DEFENDANT

RULING

1. By an oral application, the plaintiff/applicant, Joel Kipkosgei Malel through Learned counsel Mr Kiprono instructed by Cheruiyot, Melly and Associates Advocates has sought the orders that rent of Kshs. 72,000/= per month collected from the suit premises namely LR No. Kapsabet Township/69, be deposited in a joint interest-earning account of both counsel for the respective parties pending the hearing and determination of the instant suit.
2. Mr Kiprono stated that by the orders sought, no party stands to be prejudiced herein. That the orders sought are for the preservation of rent generated from the suit premises pending the outcome of the suit.
3. Ms E. Koech learned counsel for the defendant/respondent, Emily Chepkirong, opposed the application and stated that the orders sought therein were dealt with by the court on 27th September 2023.
4. It is the position of the respondent's counsel that rent from the structure on the suit premises is the respondent's only livelihood. That the status quo orders of this court given on 27th September 2023 further to the application dated 25th August 2023, are in force in respect of the suit premises. That the hearing of the suit be fast tracked instead of reviving the application dated 25th August 2025 which was determined by status quo orders herein.
5. In that regard, is the plaintiff deserving the orders sought in the application?



6. It is trite law that the doctrine of Lis Pendens is necessary for final adjudication of the matters before the court; see Anne Ngeny-vs-Joseph Tireito and another (2021) eKLR, Ogada-vs-Mollin (2009) eKLR.
7. Notably, on 27th September 2027 the Honourable court (Mwanyale J) directed, inter alia;
 - ‘a) Status quo on the register and on the ground currently being that the Defendant is in possession of Kapsabet/municipality/69 To be maintained till hearing and determination of the suit.
 - b) The application dated 25/8/2023 is therefore dispensed in terms of Order No. 2 above {means order 7(a) herein-above}.....’
8. It is pretty clear that the said interim preservation orders in respect of possession of the suit premises inclusive of rent generated therefrom are guided by Ogada and Ngeny cases (supra). In light of the same orders and the character of the present suit originated by the plaint dated 25th August 2023, the interim status quo orders of 27th September 2023 shall remain in force for the ends of justice as provided for under Sections 3 and 13 (7) of the *Environment and Land Court Act* 2015 (2011) on the mandate of this court to grant the aforesaid interim preservation orders.
9. The hearing of the plaintiff’s case is at an advanced stage. Therefore, further hearing of this suit be on priority basis in the spirit of Article 159 (2) (b) of *the Constitution* of Kenya 2010 that;

Justice shall not be delayed
10. Thus, the plaintiff’s application is without merit and the same is hereby disallowed.
11. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 6TH DAY OF OCTOBER 2025

HON. G M A ONGONDO

JUDGE

In the presence of;

Mr Kiprono instructed by C Melly, learned counsel for the Plaintiff/Applicant

Ms Koech learned counsel for the Defendant/Respondent

Walter, Court Assistant

